

IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other "materials deemed fitting and proper by the Administrative Rules Review Committee" include summaries of Public Hearings, Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers' Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)"a"]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

PLEASE NOTE: Italics indicate new material added to existing rules; strike through letters indicate deleted material.

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The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

1404 IAB 4/30/03

Schedule for Rule Making 2003

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Jan. 3 '03	Jan. 22 '03	Feb. 11 '03	Feb. 26 '03	Feb. 28 '03	Mar. 19 '03	Apr. 23 '03	July 21 '03
Jan. 17	Feb. 5	Feb. 25	Mar. 12	Mar. 14	Apr. 2	May 7	Aug. 4
Jan. 31	Feb. 19	Mar. 11	Mar. 26	Mar. 28	Apr. 16	May 21	Aug. 18
Feb. 14	Mar. 5	Mar. 25	Apr. 9	Apr. 11	Apr. 30	June 4	Sept. 1
Feb. 28	Mar. 19	Apr. 8	Apr. 23	Apr. 25	May 14	June 18	Sept. 15
Mar. 14	Apr. 2	Apr. 22	May 7	May 9	May 28	July 2	Sept. 29
Mar. 28	Apr. 16	Мау б	May 21	May 23	June 11	July 16	Oct. 13
Apr. 11	Apr. 30	May 20	June 4	June 6	June 25	July 30	Oct. 27
Apr. 25	May 14	June 3	June 18	June 20	July 9	Aug. 13	Nov. 10
May 9	May 28	June 17	July 2	July 4	July 23	Aug. 27	Nov. 24
May 23	June 11	July 1	July 16	July 18	Aug. 6	Sept. 10	Dec. 8
June 6	June 25	July 15	July 30	Aug. 1	Aug. 20	Sept. 24	Dec. 22
June 20	July 9	July 29	Aug. 13	Aug. 15	Sept. 3	Oct. 8	Jan. 5 '04
July 4	July 23	Aug. 12	Aug. 27	Aug. 29	Sept. 17	Oct. 22	Jan. 19 '04
July 18	Aug. 6	Aug. 26	Sept. 10	Sept. 12	Oct. 1	Nov. 5	Feb. 2 '04
Aug. 1	Aug. 20	Sept. 9	Sept. 24	Sept. 26	Oct. 15	Nov. 19	Feb. 16 '04
Aug. 15	Sept. 3	Sept. 23	Oct. 8	Oct. 10	Oct. 29	Dec. 3	Mar. 1 '04
Aug. 29	Sept. 17	Oct. 7	Oct. 22	Oct. 24	Nov. 12	Dec. 17	Mar. 15 '04
Sept. 12	Oct. 1	Oct. 21	Nov. 5	Nov. 7	Nov. 26	Dec. 31	Mar. 29 '04
Sept. 26	Oct. 15	Nov. 4	Nov. 19	***Nov. 19***	Dec. 10	Jan. 14 '04	Apr. 12 '04
Oct. 10	Oct. 29	Nov. 18	Dec. 3	Dec. 5	Dec. 24	Jan. 28 '04	Apr. 26 '04
Oct. 24	Nov. 12	Dec. 2	Dec. 17	***Dec. 17***	Jan. 7 '04	Feb. 11 '04	May 10 '04
Nov. 7	Nov. 26	Dec. 16	Dec. 31	Jan. 2 '04	Jan. 21 '04	Feb. 25 '04	May 24 '04
Nov. 19	Dec. 10	Dec. 30	Jan. 14 '04	Jan. 16 '04	Feb. 4 '04	Mar. 10 '04	June 7 '04
Dec. 5	Dec. 24	Jan. 13 '04	Jan. 28 '04	Jan. 30 '04	Feb. 18 '04	Mar. 24 '04	June 21 '04
Dec. 17	Jan. 7 '04	Jan. 27 '04	Feb. 11 '04	Feb. 13 '04	Mar. 3 '04	Apr. 7 '04	July 5 '04
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PRINTING SCHEDULE FOR IAB			
ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE	
24	Friday, May 9, 2003	May 28, 2003	
25	Friday, May 23, 2003	June 11, 2003	
26	Friday, June 6, 2003	June 25, 2003	

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

IAB 4/30/03

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies

FROM: Kathleen K. Bates, Iowa Administrative Code Editor SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 1.5.3, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

<u>bruce.carr@legis.state.ia.us</u> and <u>kathleen.bates@legis.state.ia.us</u>

2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, Third Floor West, Ola Babcock Miller Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

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The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, May 13, 2003, at 8 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

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Iowa summer institute program, rescind ch 17, Filed ARC 2439B
Accelerated career education grant program, ch 19, Filed ARC 2438B
Iowa national guard educational assistance program, 20.1, Filed ARC 2437B
Physician loan payments program, rescind ch 23, Notice ARC 2440B
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lowa comprehensive plan, ch 9, Notice ARC 2422B, also Filed Emergency ARC 2424B 4/16/03 ENERGY AND GEOLOGICAL RESOURCES DIVISION[565] NATURAL RESOURCES DEPARTMENT[561]"umbrella" Permanent assignment of petroleum products; grant programs for schools, hospitals, and buildings owned by units of local government, nonprofit organizations and public care institutions; solar energy and energy conservation bank; state energy conservation program and energy extension service, rescind chs 4, 7, 8, 16, 17; ch 18 title, 18.1 to 18.3, 18.3(1), 18.3(2), 18.4, 18.5, 18.5(1), 18.5(2); rescind ch 19, Notice ARC 2453B 4/30/03 ENVIRONMENTAL PROTECTION COMMISSION[567] NATURAL RESOURCES DEPARTMENT[561]"umbrella" Registration of waste tire haulers, ch 116, Filed ARC 2414B 4/16/03 HUMAN SERVICES DEPARTMENT[441] Contested case proceedings, 7.1 to 7.4, 7.5(2)"a"(5) to (16), 7.5(2)"d" and "f" to "i," 7.5(3), 7.5(4)"a" and "b," 7.5(4)"b"(4), 7.5(6), 7.5(7), 7.5(9), 7.5(10), 7.6(1), 7.7(1), 7.7(1)"b"(3), 7.7(2)"f" and "n," 7.7(3), 7.7(5)"e," 7.7(6), 7.8(1), 7.8(2), 7.8(8), 7.8(8), 7.8(9)"a" to "c," 7.9(1), 7.9(1), 7.9(2), 7.9(2)"c" to "e," 7.9(4)"a," 7.10(4)"e," 7.10(5), 7.10(7), 7.13(5)"b," 7.13(6)"c," 7.15, 7.16(2), 7.16(3), 7.16(5) to 7.16(7), 7.16(9)"b," 7.16(10), 7.18(1), 7.22, 7.23, 7.24(1), Filed ARC 2444B 4/10/03 Disputed county billings, adopt ch 15, Notice ARC 2415B 4/16/03 Refugee services program—eligibility of victims of trafficking, 61.1, 61.3, Filed Emergency After Notice ARC 2415B 4/30/03 Age limit for eligibility for supported employment services under
lowa comprehensive plan, ch 9, Notice ARC 2422B, also Filed Emergency ARC 2424B. ENERGY AND GEOLOGICAL RESOURCES DIVISION[565] NATURAL RESOURCES DEPARTMENT[561]"umbrella" Permanent assignment of petroleum products; grant programs for schools, hospitals, and buildings owned by units of local government, nonprofit organizations and public care institutions; solar energy and energy conservation bank; state energy conservation program and energy extension service, rescind chs 4, 7, 8, 16, 17; ch 18 title, 18.1 to 18.3, 18.3(1), 18.3(2), 18.4, 18.5, 18.5(1), 18.5(2); rescind ch 19, Notice ARC 2453B. ENVIRONMENTAL PROTECTION COMMISSION[567] NATURAL RESOURCES DEPARTMENT[561]"umbrella" Registration of waste tire haulers, ch 116, Filed ARC 2414B. 4/16/03 HUMAN SERVICES DEPARTMENT[441] Contested case proceedings, 7.1 to 7.4, 7.5(2)"a"(5) to (16), 7.5(2)"d" and "f" to "i," 7.5(3), 7.5(4)"a" and "n," 7.7(3), 7.7(5)"e," 7.7(6), 7.8(1), 7.8(2), 7.8(5), 7.8(8), 7.8(9)"a" to "c," 7.9(1), 7.9(1)"b" and "c," 7.9(2), 7.9(2)"c" to "e," 7.9(4)"a," 7.10(4)"e," 7.10(5), 7.10(7), 7.13(5)"b," 7.13(6)"c," 7.15, 7.16(2), 7.16(3), 7.16(5) to 7.16(7), 7.16(9)"b," 7.16(10), 7.18(1), 7.22(, 7.23, 7.24(1), Filed ARC 2444B Disputed county billings, adopt ch 15, Notice ARC 2415B 4/30/03 Refugee services program—eligibility of victims of trafficking, 61.1, 61.3, Filed Emergency After Notice ARC 2415B 4/30/03 Age limit for eligibility for supported employment services under home- and community-based mental retardation waiver, 83.6(1)"g"(1), Notice ARC 2455B 4/30/03
lowa comprehensive plan, ch 9, Notice ARC 2422B, also Filed Emergency ARC 2424B 4/16/03 ENERGY AND GEOLOGICAL RESOURCES DIVISION[565] NATURAL RESOURCES DEPARTMENT[561]"umbrella" Permanent assignment of petroleum products; grant programs for schools, hospitals, and buildings owned by units of local government, nonprofit organizations and public care institutions; solar energy and energy conservation bank; state energy conservation program and energy extension service, rescind chs 4, 7, 8, 16, 17; ch 18 title, 18.1 to 18.3, 18.3(1), 18.3(2), 18.4, 18.5, 18.5(1), 18.5(2); rescind ch 19, Notice ARC 2453B 4/30/03 ENVIRONMENTAL PROTECTION COMMISSION[567] NATURAL RESOURCES DEPARTMENT[561]"umbrella" Registration of waste tire haulers, ch 116, Filed ARC 2414B 4/16/03 HUMAN SERVICES DEPARTMENT[441] Contested case proceedings, 7.1 to 7.4, 7.5(2)"a"(5) to (16), 7.5(2)"d" and "f" to "i," 7.5(3), 7.5(4)"a" and "b," 7.5(4)"b"(4), 7.5(6), 7.5(7), 7.5(9), 7.5(10), 7.6(1), 7.7(1), 7.7(1)"b"(3), 7.7(2)"f" and "n," 7.7(3), 7.7(5)"e," 7.7(6), 7.8(1), 7.8(2), 7.8(8), 7.8(8), 7.8(9)"a" to "c," 7.9(1), 7.9(1), 7.9(2), 7.9(2)"c" to "e," 7.9(4)"a," 7.10(4)"e," 7.10(5), 7.10(7), 7.13(5)"b," 7.13(6)"c," 7.15, 7.16(2), 7.16(3), 7.16(5) to 7.16(7), 7.16(9)"b," 7.16(10), 7.18(1), 7.22, 7.23, 7.24(1), Filed ARC 2444B 4/10/03 Disputed county billings, adopt ch 15, Notice ARC 2415B 4/16/03 Refugee services program—eligibility of victims of trafficking, 61.1, 61.3, Filed Emergency After Notice ARC 2415B 4/30/03 Age limit for eligibility for supported employment services under
Lowa comprehensive plan, ch 9, Notice ARC 2422B, also Filed Emergency ARC 2424B ARC 2424B
Lowa comprehensive plan, ch 9, Notice ARC 2422B, also Filed Emergency ARC 2424B ARC 2424B
Lowa comprehensive plan, ch 9, Notice ARC 2422B, also Filed Emergency ARC 2424B ARC 2424B

LABOR SERVICES DIVISION[875] WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella" OSHA record-keeping regulations adopted by reference, 4.3, Filed ARC 2420B
LOTTERY DIVISION[705] REVENUE AND FINANCE DEPARTMENT[701]"umbrella" General operation; licensing; placement of lottery equipment; scratch tickets; pull-tab tickets; computerized lottery games, 1.3, 1.4, 1.6, 1.22, 1.29(4), 2.16(1) to 2.16(3), 3.13, 8.3, 8.4, 8.8, 8.9(1)"g" and "h," 11.3, 11.5(1)"c" to "g," 13.4, 13.6, 13.7, 13.14, 13.21, 13.23, Filed ARC 2448B
Criminal and financial background investigations; purchasing, 1.30, 4.1, 4.2, 4.12, 4.16, Notice ARC 2450B
Pull-tab prizes, 11.6, Notice ARC 2449B 4/30/03 Computerized lottery games—definitions, 13.2, Filed ARC 2447B 4/30/03
MEDICAL EXAMINERS BOARD[653] PUBLIC HEALTH DEPARTMENT[641]"umbrella" Convenience fee for on-line renewal of license, 8.4(1)"c," Notice ARC 2428B
NATURAL RESOURCE COMMISSION[571] NATURAL RESOURCES DEPARTMENT[561]"umbrella" Rules of practice in contested cases, 7.1, Filed ARC 2454B
NURSING BOARD[655] PUBLIC HEALTH DEPARTMENT[641]"umbrella"
License fee increases, 3.1, Notice ARC 2452B
PUBLIC HEALTH DEPARTMENT[641]"umbrella" Pharmacist licenses, 2.4, 2.5, 2.12(5), 2.16, Notice ARC 2410B
retention of records, 6.9(2), 6.16(4)"b," Notice ARC 2409B 4/16/03 General pharmacy practice—correction of cross reference, 6.15(3), Filed Emergency After Notice ARC 2427B 4/16/03
Automated medication distribution systems—correction of cross references, 9.4"3," 9.5(3)"b," Filed Emergency ARC 2426B
Emergency drug supply for home health agencies or hospices—inclusion of normal saline for irrigation, 22.9(5)"o" to "r," Notice ARC 2408B
PROFESSIONAL LICENSURE DIVISION[645] PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Chiropractic examiners, ch 42, Notice ARC 2413B 4/16/03 Massage therapy examiners, 131.1, 131.2(6); ch 132; 133.3(2)"e," 135.1(10), 4/16/03 Notice ARC 2412B 4/16/03
Athletic training examiners, 350.6(3), 350.6(4), ch 353, Notice ARC 2411B
Professional Licensing and Regulation Division[193] COMMERCE DEPARTMENT[181] "umbrella" Work product review of original and upgrade applications; work product review fee,
3.5, 12.1, Notice ARC 2430B
REAL ESTATE COMMISSION[193E] Professional Licensing and Regulation Division[193] COMMERCE DEPARTMENT[181]"umbrella" Trust accounts and closings, 13.1(2), 13.1(3), 13.1(11), Notice ARC 2429B, also Filed Emergency ARC 2456B
SECRETARY OF STATE[721] Local option sales tax elections—new ballot form with differing automatic repeal dates for voters in contiguous cities, 21.801(1), 21.801(1)"k," Filed Emergency ARC 2423B
TRANSPORTATION DEPARTMENT[761] Regulations applicable to carriers, 520.1(1)"a," 520.1(1)"b," 520.2, Filed ARC 2405B

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time. **EDITOR'S NOTE: Terms ending April 30, 2003.**

Senator Jeff Angelo 808 West Jefferson Creston, Iowa 50801

Senator Michael Connolly 3458 Daniels Street Dubuque, Iowa 52002

Senator John P. Kibbie

P.O. Box 190

Emmetsburg, Iowa 50536

Senator Paul McKinley Route 5, Box 101H Chariton, Iowa 50049

Senator Donald Redfern

415 Clay Street

Cedar Falls, Iowa 50613

Joseph A. Royce **Legal Counsel** Capitol, Room 116A Des Moines, Iowa 50319 Telephone (515)281-3084 Fax (515)281-5995 Representative Danny Carroll

244 400th Avenue Grinnell, Iowa 50112

Representative George Eichhorn

3533 Fenton Avenue Stratford, Iowa 50249

Representative Marcella R. Frevert

P.O. Box 324

Emmetsburg, Iowa 50536

Representative David Heaton

510 East Washington Mt. Pleasant, Iowa 52641

Representative Mark Kuhn

2667 240th Street

Charles City, Iowa 50616

Brian Gentry

Administrative Rules Coordinator Governor's Ex Officio Representative

Capitol, Room 11

Des Moines, Iowa 50319

PUBLIC HEARINGS

To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)"b" by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

Conference Room 1 North, First Floor May 13, 2003

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF [261]

CEBA—modernization project component, 53.2, 53.11 to 53.17 IAB 4/16/03 ARC 2403B	Northwest Conference Room Second Floor, 200 E. Grand Ave. Des Moines, Iowa	May 6, 2003 2 p.m.
Public records and fair information practices, ch 169 IAB 4/16/03 ARC 2404B	Northwest Conference Room Second Floor, 200 E. Grand Ave. Des Moines, Iowa	May 6, 2003 3 p.m.

EDUCATIONAL EXAMINERS BOARD[282]

Initiation of complaints by DOT.

11.4(1) IAB 4/16/03 ARC 2417B	Grimes State Office Bldg. Des Moines, Iowa	3:30 p.m.
Legal representation, 11.21(3) IAB 4/16/03 ARC 2416B	Conference Room 1 North, First Floor Grimes State Office Bldg. Des Moines, Iowa	May 13, 2003 4 p.m.
Correcting licenses, 14.107 IAB 4/16/03 ARC 2418B	Conference Room 1 North, First Floor Grimes State Office Bldg. Des Moines, Iowa	May 13, 2003 2:30 p.m.
Clarification of conditional licenses, 14.110, 14.115 to 14.118, 14.121(5), 14.131 IAB 4/16/03 ARC 2419B	Conference Room 1 North, First Floor Grimes State Office Bldg. Des Moines, Iowa	May 13, 2003 2 p.m.
School psychologist endorsement, 15.3(8) IAB 4/16/03 ARC 2421B	Conference Room 1 North, First Floor Grimes State Office Bldg. Des Moines, Iowa	May 13, 2003 1:30 p.m.

EMERGENCY MANAGEMENT DIVISION[605]

Iowa comprehensive plan,	Conference Room, Level A	May 7, 2003
ch 9	Hoover State Office Bldg.	10 a.m.
IAB 4/16/03 ARC 2422B	Des Moines, Iowa	
(See also ARC 2424B)		

ENERGY AND GEOLOGICAL RESOURCES DIVISION[565]

Programs designed to promote energy	Fifth Floor Conference Rooms	May 22, 2003
efficiency and renewable energy	Wallace State Office Bldg.	9 to 11 a.m.
applications, rescind chs 4, 7, 8, 16,	Des Moines, Iowa	
17, 19; 18.1 to 18.5		
IAB 4/30/03 ARC 2453B		

HUMAN SERVICES DEPARTMENT[441]

Disputed county billings,	First Floor Southeast Conference Room	May 8, 2003
ch 15	Hoover State Office Bldg.	9 to 11 a.m.
IAB 4/16/03 ARC 2415B	Des Moines, Iowa	

LOTTERY	DIVISION	[705]
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Background checks; purchasing,	2015 Grand Avenue	May 22, 2003
1.30, 4.1, 4.2, 4.12, 4.16	Des Moines, Iowa	9 a.m.
IAB 4/30/03 ARC 2450B		(If requested)
Pull-tab prizes,	2015 Grand Avenue	May 22, 2003
11.6	D 14 ' 1	10
11.6	Des Moines, Iowa	10 a.m.

MEDICAL EXAMINERS BOARD[653]

Convenience fee for on-line renewal,	Suite C	May 20, 2003
8.4(1)	400 SW Eighth St.	3 p.m.
IAB 4/30/03 ARC 2428B	Des Moines Iowa	•

PROFESSIONAL LICENSURE DIVISION[645]

Colleges for chiropractic physicians, ch 42 IAB 4/16/03 ARC 2413B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	May 13, 2003 9 to 11 a.m.
Massage therapists, 131.1, 131.2(6), ch 132, 133.3(2), 135.1(10) IAB 4/16/03 ARC 2412B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	May 8, 2003 9 to 11 a.m.
Athletic trainers, 350.6, ch 353 IAB 4/16/03 ARC 2411B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	May 8, 2003 1 to 3 p.m.

REAL ESTATE COMMISSION[193E]

Trust accounts and closings,	Conference Room, Second Floor	May 20, 2003
13.1	1920 SE Hulsizer	10 a.m.
IAB 4/30/03 ARC 2429B	Ankeny, Iowa	
(See also ARC 2456B herein)		

UTILITIES DIVISION[199]

Customer service rules revisions, 6.2, 6.3(3), 6.5(2), 19.4, 20.4 IAB 4/2/03 ARC 2378B	Hearing Room 350 Maple St. Des Moines, Iowa	May 28, 2003 10 a.m.
Alternate energy production, amendments to ch 15; 20.9(2) IAB 3/5/03 ARC 2329B	Hearing Room 350 Maple St. Des Moines, Iowa	May 16, 2003 10 a.m.
Revisions required pursuant to Executive Orders 8 and 9, amendments to chs 19 to 21, 35, 36 IAB 4/2/03 ARC 2387B	Hearing Room 350 Maple St. Des Moines, Iowa	May 9, 2003 1 p.m.

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

"Umbrella" agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory "umbrellas."

Other autonomous agencies which were not included in the original reorganization legislation as "umbrella" agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
   Agricultural Development Authority[25]
   Soil Conservation Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF INDUSTRY COUNCIL, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CITIZENS' AIDE[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
   Alcoholic Beverages Division[185]
Banking Division[187]
   Credit Union Division[189]
   Insurance Division[191]
   Professional Licensing and Regulation Division[193]
      Accountancy Examining Board[193A]
      Architectural Examining Board [193B]
      Engineering and Land Surveying Examining Board[193C]
      Landscape Architectural Examining Board[193D]
      Real Estate Commission[193E]
      Real Estate Appraiser Examining Board[193F]
   Savings and Loan Division[197]
   Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
   Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
   Arts Division[222]
   Historical Division[223]
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
   City Development Board[263]
   Iowa Finance Authority [265]
EDUCATION DEPARTMENT[281]
   Educational Examiners Board[282]
   College Student Aid Commission [283]
   Higher Education Loan Authority [284]
   Iowa Advance Funding Authority [285]
   Libraries and Information Services Division[286]
   Public Broadcasting Division[288]
   School Budget Review Committee [289]
EGG COUNCIL, IOWA[301]
ELDER AFFAIRS DEPARTMENT[321]
EMPOWERMENT BOARD, IOWA[349]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
GENERAL SERVICES DEPARTMENT[401]
HUMAN INVESTMENT COUNCIL[417]
HUMAN RIGHTS DEPARTMENT[421]
   Community Action Agencies Division[427]
   Criminal and Juvenile Justice Planning Division[428]
   Deaf Services Division [429]
   Persons With Disabilities Division[431]
   Latino Affairs Division[433]
   Status of African-Americans, Division on the [434]
   Status of Women Division[435]
HUMAN SERVICES DEPARTMENT[441]
INFORMATION TECHNOLOGY DEPARTMENT[471]
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INSPECTIONS AND APPEALS DEPARTMENT[481]
   Employment Appeal Board[486]
   Foster Care Review Board[489]
    Racing and Gaming Commission[491]
    State Public Defender[493]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
MANAGEMENT DEPARTMENT[541]
    Appeal Board, State [543]
   City Finance Committee [545]
County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
NATIONAL AND COMMUNITY SERVICE, IOWA COMMISSION ON[555]
NATURAL RESOURCES DEPARTMENT[561]
    Energy and Geological Resources Division[565]
   Environmental Protection Commission[567]
   Natural Resource Commission[571]
   Preserves, State Advisory Board for [575]
PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STÖRAGE TANK FUND
       BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
    Emergency Management Division[605]
    Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
   Substance Abuse Commission[643]
   Professional Licensure Division[645]
   Dental Examiners Board[650]
   Medical Examiners Board[653]
   Nursing Board[655]
Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
    Archaeologist[685]
REVENUE AND FINANCE DEPARTMENT[701]
    Lottery Division[705]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
   Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
VETERINARY MEDICINE BOARD[811]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
    Labor Services Division[875]
    Workers' Compensation Division[876]
   Workforce Development Board and
       Workforce Development Center Administration Division[877]
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ARC 2435B

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to amend Chapter 10, "Federal Family Education Loan Programs," Iowa Administrative Code.

The proposed amendments, which clarify the rules, are made pursuant to Executive Order Number 8. The amendments do not materially affect the administration of the program.

Interested persons may submit comments orally or in writing by 4:30 p.m. on May 20, 2003, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)242-3344.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

The following amendments are proposed.

Amend 283—Chapter 10 as follows:

CHAPTER 10 FEDERAL FAMILY EDUCATION LOAN PROGRAMS

283—10.1(261) Authority and scope. The following sets forth the rules and procedures through which the college student aid commission (" *the* commission" or "ICSAC") will administer administers the Federal Family Education Loan Programs (FFELP).

10.1(1) Federal regulations. The federal regulations of the U.S. Department of Education (DE), promulgated pursuant to the Higher Education Act of 1965 (Public Law 89-329), as amended, are incorporated by reference as rules of the commission, with noted exceptions. Rules incorporated by reference are *Section 34 of* the Code of Federal Regulations (34 CFR), as in effect on December 31, 1995.

10.1(2) Administration of program. The commission shall distribute to lender and school personnel the "Common Manual—Unified Student Loan Policy" detailing the processes necessary to administer the program on an institutional level.

283—10.2(261) Exceptions. The following are additions to the federal regulations:

10.2(**1**) Eligibility.

- a. No change.
- b. Lender.
- (1) General. Banks, savings and loan associations banks, credit unions, pension funds, insurance companies, and schools that meet the requirements outlined in 34 CFR 682.200 are eligible to be lenders for the FFELP administered by the commission. A single agency of the state of Iowa or a single nonprofit, private agency designated by the state of Iowa also qualifies.
- (2) Secondary markets. For the purposes of purchasing, holding, and consolidating loans made by other lenders un-

der the program, the Student Loan Marketing Association and the Iowa Student Loan Liquidity Corporation are also considered lenders. The Iowa Student Loan Liquidity Corporation is also considered a lender only for the purpose of originating federal PLUS and SLS loans for borrowers who have obtained prior federal PLUS and SLS loans which are held by the Iowa Student Loan Liquidity Corporation.

(3) Agreements. A lender may participate in the FFELP administered by the commission by executing the Agreement to Guarantee Loans which establishes the rights and duties of the lender and the Iowa college student aid commission (ICSAC). (This form is available from the ICSAC commission office.) Both the lender and the commission retain an original copy copies of this document.

(4) Restrictions. A lender is not required to make any quota of loans nor to commit any specific amount of funds to the program unless its agreement includes a lender of last resort provision. Iowa-based lenders may make ICSAC commission-guaranteed FFELP loans to otherwise eligible students who are neither Iowa residents nor attending an Iowa educational institution institutions.

(5) Lender of last resort. A lender of last resort agrees to make loans to all applicants who submit properly completed applications and qualify to receive interest benefits. The agreement may be terminated upon 60 days' notice by the lender or the ICSAC commission or as provided through limitation, suspension, or termination proceedings.

(6) to (8) No change.

c. School and course of study.

(1) General. Institutions of higher education and vocational schools that are approved by the U.S. Department of Education for participation in the FFELP are eligible to participate in the program administered by the ICSAC commission.

(2) and (3) No change.

10.2(2) Electronic disbursement. Rescinded IAB 4/24/96, effective 5/29/96.

10.2(3) (2) Guarantee fee.

- a. General. The ICSAC commission's guarantee fee is an amount a borrower pays to the commission for guaranteeing repayment of a loan. The maximum guarantee fee is set by federal statute. The commission's rate is determined by the commission with consideration given to the based on an annual analysis of the ICSAC commission's reserve fund and the requirements of the U.S. Department of Education regulations.
- b. Fee structure. The guarantee fee for a Federal Family Education Loan is one-half of 1 percent (.5%) of the loan amount. The amount of the guarantee fee, if assessed, is computed by the commission and reported to a lender on the Notice of Loan Guarantee and Disclosure Statement. Assistance with calculation of guarantee fees is available from the commission office.

10.2(4) (3) Due diligence in collection.

a. and b. No change.

c. Lender request for assistance (LRA). An LRA may be sent no earlier than the sixtieth day and no later than the eightieth day of delinquency unless a borrower cannot be located through normal skip tracing procedures, in which case an LRA may be sent before the sixtieth day of delinquency.

10.2(5) (4) Offset against state income tax refund or rebate.

- a. No change.
- b. Certification. The ICSAC commission shall submit to the department of revenue and finance a list of defaulted borrowers to certify for offset.
- c. Borrower notification. The ICSAC commission shall mail a preoffset notice to a defaulted borrower when:
- (1) The ICSAC commission is notified by the department of revenue and finance that the defaulted borrower is entitled to a state income tax refund or rebate; and
- (2) The ICSAC commission makes claim to the defaulted borrower's state income tax refund or rebate.

The preoffset notice will inform the defaulted borrower of the amount the ICSAC commission intends to claim and apply to the outstanding defaulted student loan.

- d. Challenge of offset. When the defaulted borrower wishes to contest contests a claim, a written request shall be submitted to the ICSAC commission within 15 calendar days after the preoffset notice is mailed. When the request is received within the 15-day limit, a hearing shall be granted pursuant to 283—10.91(261).
- e. Spousal share. The spouse's proportionate share of a joint return filed with a defaulted borrower, as determined by the department of revenue and finance, shall be released by the department of revenue and finance unless other claims are made on that portion of the joint income tax refund. The request for release of the spouse's proportionate share shall be in writing and received by the ICSAC commission within 15 calendar days after the mailing date of the preoffset notice.
- f. Claim of offset. The ICSAC commission may make claim to a defaulted borrower's state income tax refund or rebate when the defaulted borrower has not made a voluntary payment which has been posted to the borrower's account during the 120 days preceding the day an offset tape match is run. A voluntary payment toward a defaulted loan is defined as making a an agreed upon monthly payment of at least \$50 through a means other than by offset or garnishment.
- g. Defaulted accounts only. The ICSAC commission shall notify a defaulted borrower of the final decision regarding the claim against the tax refund or rebate by mailing a final disposition of offset claim notice to the defaulted borrower.
- h. When offset is used. Offsets shall be applied to outstanding defaulted student loan accounts only.

10.2(6) (5) Appeals.

- a. General. Borrowers with defaulted student loans may appeal commission decisions to offset their state tax refunds or rebates pursuant to the procedures provided in this rule.
- b. Procedures. If a defaulted borrower wishes to contest contests a claim, written appeal shall be presented to the commission's state offset coordinator of the commission, setting forth reasons for disagreement. The evidence must be presented within 15 calendar days after notification of the proposed offset, and the appellant may request a hearing.
 - (1) to (4) No change.
- c. Additional provisions. Except as specifically provided in this rule, administrative hearings will be governed by 283—Chapter 5 4.
- **10.2(7)** (6) Offset against federal income tax refund or rebate—general. The ICSAC commission annually assigns all right, title and interest to certain defaulted reinsured student loans to the U.S. Department of Education for offset against federal income tax refunds or rebates. This offset procedure is conducted by the U.S. Department of Education under regulations promulgated by the U.S. Department of Education.

These rules are intended to implement Iowa Code section 261.37.

ARC 2434B

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to amend Chapter 14, "Osteopathic Physician Recruitment Program," Iowa Administrative Code.

The proposed amendments, which clarify the rules, are made pursuant to Executive Order Number 8. The amendments do not materially affect the administration of the program.

Interested persons may submit comments orally or in writing by 4:30 p.m. on May 20, 2003, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)242-3344.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

The following amendments are proposed.

Amend **283—Chapter 14** as follows:

CHAPTER 14 OSTEOPATHIC PHYSICIAN RECRUITMENT PROGRAM

PREAMBLE

The osteopathic physician recruitment program administered by the college student aid commission is a state-supported program that consists of forgivable loans and tuition scholarships for students and loan repayment benefits for graduates of the Des Moines University of Osteopathic Medicine and Health Sciences, Medical Center, hereinafter "university," Des Moines, Iowa.

283—14.1(261) Definitions.

"Eligible rural community" means a medically underserved rural community.

"Iowa resident student" means an individual who meets the criteria used by the state board of regents to determine residency for tuition purposes, 681 IAC 1.4(262).

"Primary care" means family medicine, general internal medicine, and pediatrics.

283—14.2(261) Forgivable loan.

14.2(1) Student eligibility. A recipient of a forgivable loan must be an Iowa resident who is enrolled in a program at the University of Osteopathic Medicine and Health Sciences university leading to a degree in osteopathic medicine and who agrees to practice medicine in Iowa. A borrower shall notify the commission within 30 days of a name or address change, change of enrollment status, transfer to another school, change of employment, enlistment in the military services of the United States, and of events leading to temporary

disability from the time of loan disbursement through the life of the loan obligation.

14.2(2) Award limits. The annual amount of the forgivable loan to an eligible osteopathic student is determined by the annual appropriation, loan collections, and the number of eligible students.

14.2(3) to **14.2(5)** No change.

14.2(6) Interest rate. The rate of interest on loans under this program shall be at the rate of 10.5 percent per annum on the unpaid principal balance.

14.2(7) Disbursement of loan proceeds.

a. No change.

- b. The loan check will be made copayable to the borrower and the University of Osteopathic Medicine and Health Sciences and will be sent to the university within ten days following the receipt of the proper certifications.
- b. Loan proceeds will be disbursed via electronic funds transfer (EFT) to the university as requested by the university.
- c. The university will deliver the check to the student and require that the loan check be applied apply forgivable loan proceeds directly to the student's account students' accounts.
 - d. No change.
- **14.2(8)** Repayment terms. Repayment of the forgivable loan begins 30 days following:
- a. Termination of enrollment at the University of Osteopathic Medicine and Health Sciences. university;
- b. Graduation of the borrower when the borrower does not intend to commence a medical residency or internship within a reasonable period of time and subsequently practice medicine in the state of Iowa-;
- c. Completion of a medical residency or internship where the borrower does not commence practice of medicine in the state of Iowa within a reasonable period of time-; or
 - d. No change.

14.2(9) Loan payments.

- No change.
- b. It shall be the borrower's responsibility to The borrower shall remit payments to the commission by the fifteenth day of each month as required in the repayment schedule.
- c. In the event the borrower fails to abide by any material provision of the promissory note or fails to make any payment due under the promissory note within ten days after the date the payment is due, the commission may declare the borrower in default and declare the entire unpaid balance and accrued interest on the promissory note due.
- d. The borrower is responsible for notifying the commission immediately of a change of name, place of employment, or home address.

14.2(10) Deferral of repayment.

- a. Repayment of the borrower's loan obligation may be deferred under the following circumstances: return to full-time study; active duty in the United States military service, not to exceed three years; *or* a period of temporary disability, not to exceed three years.
- b. Repayment of the borrower's loan obligation under this loan program is not required during periods of enrollment as a student at the University of Osteopathic Medicine and Health Sciences university, during periods of internship or residency, or while fulfilling the physician service requirement.
- c. Forbearance is a revision of repayment terms to temporarily postpone payments. It may be granted when a borrower experiences a temporary hardship and is willing but

unable to pay in accordance with the repayment schedule. Borrowers remain responsible for interest accrual during forbearance periods.

The program administrator may grant forbearance for periods of less than six months; periods of greater than six months but less than one year must be approved by the executive director; and periods of greater than one year must be approved by the commission.

d. Loans not forgiven may be sold by the commission to a bank, savings bank, credit union, or agency eligible to participate in the guaranteed student loan program under the federal Higher Education Act of 1965, 20 U.S.C. 1071 et seq., when loans become due for repayment.

14.2(11) Loan cancellation.

- a. No change.
- b. Partial loan cancellation shall be granted based on the percentage of the service requirement completed by the borrower. The commission shall revise the repayment schedule accordingly according to the percentage of service completed by the borrower.
- c. To certify eligibility for cancellation, the borrower must submit to the commission an affidavit verifying practice in Iowa annually verify, in a format acceptable to the commission, that the borrower practiced as a licensed physician in the state of Iowa for 12 consecutive months for each annual loan to be canceled.
- d. A borrower shall notify the commission within 30 days of a name or address change, a change of enrollment status, transfer to another school, a change of employment, enlistment in the military services of the United States, and of events leading to temporary disability.
- e.d. In the event of death or total and permanent disability, a borrower's obligation to repay this loan is canceled. Borrowers seeking forgiveness as the result of total or permanent disability must submit information substantiating the claim to the commission.

14.2(12) No change.

283—14.3(261) Tuition scholarship.

- 14.3(1) Student eligibility. A third year student at the University of Osteopathic Medicine and Health Sciences university who agrees to practice in an eligible rural Iowa community shall be eligible for a tuition scholarship. The tuition scholarship is renewable for one year. A student who receives a tuition scholarship shall not be eligible for the physician loan repayment program.
- 14.3(2) Selection criteria. Individuals Recipients shall be selected by officials at the University of Osteopathic Medicine and Health Sciences university.

14.3(3) to **14.3(6)** No change.

14.3(7) Repayment.

- a. A student shall repay the tuition scholarship plus interest at 12 percent per annum to the commission if the student fails to:
- (1) Complete a residency in primary care within four years after graduation from the University of Osteopathic Medicine and Health Sciences university.
 - (2) and (3) No change.
 - b. No change.
 - 14.3(8) No change.

283—14.4(261) Physician loan repayment program.

14.4(1) Recruitment. The University of Osteopathic Medicine and Health Sciences university shall recruit and place physicians in rural communities that have agreed agree to provide additional funds for the physician's physician loan repayment program.

14.4(2) and 14.4(3) No change.

14.4(4) Disbursement.

a. The commission shall disburse state funds to the University of Osteopathic Medicine and Health Sciences university upon receipt of the physician's contract to practice in a rural physician shortage community.

b. The University of Osteopathic Medicine and Health Sciences university shall arrange for the repayment of the physician's loan(s).

14.4(5) Repayment.

a. No change.

b. A physician shall repay the prorated balance of the physician loan repayment benefits and accrued interest of at 12 percent per annum.

c. The prorated balance of the physician loan repayment benefits must be paid in full within three years from the date the primary care service ended ends.

14.4(6) No change.

14.4(7) Administrative allowance. The commission shall pay the University of Osteopathic Medicine and Health Sciences university an administrative fee from the funds appropriated for the tuition scholarship and physician placement programs.

These rules are intended to implement Iowa Code section 261.19.

ARC 2440B

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to rescind Chapter 23, "Physician Loan Payments Program," Iowa Administrative Code.

This proposed amendment eliminates rules for a program for which there is no longer statutory authority and is made pursuant to Executive Order Number 8.

Interested persons may submit comments orally or in writing by 4:30 p.m. on May 20, 2003, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)242-3344.

This amendment is intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

The following amendment is proposed.

Rescind and reserve **283—Chapter 23**.

ARC 2433B

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to amend Chapter 32, "Chiropractic Graduate Student Forgivable Loan Program," Iowa Administrative Code.

The proposed amendments, which clarify the rules, are made pursuant to Executive Order Number 8. The amendments do not materially affect the administration of the program.

Interested persons may submit comments orally or in writing by 4:30 p.m. on May 20, 2003, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)242-3344.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

The following amendments are proposed.

Amend 283—Chapter 32 as follows:

CHAPTER 32 CHIROPRACTIC GRADUATE STUDENT FORGIVABLE LOAN PROGRAM

283—32.1(261) Chiropractic graduate student forgivable loan program. The chiropractic graduate student forgivable loan program is a state-supported and administered forgivable loan program for Iowans enrolled at Palmer College of Chiropractic, hereinafter "the college."

32.1(1) Definitions. As used in this chapter:

"Chiropractic practice" means working full-time as a licensed chiropractor in the state of Iowa as certified by the state board of examiners.

"Graduate student" means a student who has completed at least 90 semester hours, or the trimester or quarter equivalent, of postsecondary coursework at a public higher education institution or at an accredited private institution, as defined under Iowa Code section 261.9.

"Iowa resident student" means an individual who meets the criteria used by the state board of regents to determine residency for tuition purposes, 681 IAC 1.4(262).

"Underserved area" means a geographical area included on the Iowa governor's health practitioner shortage area list, which is compiled by the center for rural health and primary care of the Iowa department of public health.

32.1(2) Recipient eligibility.

- a. Individuals Graduate students who are enrolled at the Palmer College of Chiropractic college on or after July 1, 1999, who meet the Iowa residency criteria as defined in 681 IAC 1.4(262) and agree to practice chiropractic in an underserved area areas in Iowa are eligible to apply for program benefits.
- b. The annual amount of the forgivable loan to an eligible chiropractic student is determined by dividing the annual appropriation by the number of eligible students. *The loan*

amount shall not exceed the student's annual cost of tuition and fees.

- c. Eligible students who borrowed prior to July 1, 1999, and seek additional assistance, must agree to practice in an underserved area areas in Iowa to qualify for cancellation benefits for all loans.
- d. Notwithstanding the foregoing, the amount of a forgivable loan for an eligible chiropractic student shall not exceed the student's annual cost of tuition and fees.
- **32.1(3)** Criteria for selection of recipients. Rescinded IAB 9/8/99, effective 10/13/99.
- **32.1(4)** (3) Promissory note. The chiropractic recipient of a loan under this program shall sign a promissory note agreeing to practice chiropractic in an underserved area in Iowa for one full year for each loan received or to repay the loan and accrued interest according to repayment terms specified in the note.
- **32.1(5)** (4) Interest rate. The rate of interest on loans under this program shall be at the rate of 10.5 percent per annum on the unpaid principal balance.

32.1(6) (5) Disbursement of loan proceeds.

- a. The full loan amount will be disbursed when the college certifies that the borrower is an Iowa resident and enrolled in good standing.
- b. The loan check will be made copayable to the borrower and Palmer College of Chiropractic and will be sent to the college within ten days following the receipt of the proper certification. Loan proceeds will be disbursed to the college as requested by the college.
- c. The college will deliver the check to the student and require that the loan check be endorsed to the college to be applied apply loan proceeds directly to the borrower's borrowers' tuition accounts.
- d. If the student borrower withdraws from attendance and is entitled to a refund of tuition and fees, the pro-rata share of the refund attributable to the state loan must be refunded to the commission.

32.1(7) (6) Loan cancellations.

- a. Thirty days following the termination of enrollment at Palmer College of Chiropractic the college or termination of a chiropractic practice in the state of Iowa, the borrower shall notify the commission of the nature of the borrower's employment or educational status.
- b. To certify eligibility for cancellation, the borrower must submit annually verify, in a format acceptable to the commission, an affidavit from the state licensing board verifying that the borrower practiced as a licensed chiropractor in the state of Iowa for 12 consecutive months for each annual loan to be canceled.

c. and d. No change.

32.1(8) (7) Loan payments.

a. No change.

- b. It shall be the borrower's responsibility to remit payments to the commission by the fifteenth day of each month as required by the repayment schedule.
 - c. No change
- d. The borrower is responsible for notifying the commission immediately of a change of *in* name, place of employment, or home address.

32.1(9) (8) Deferral of repayment.

- a. Repayment of the borrower's loan obligation shall become due begin one year after the borrower graduates if the borrower does not practice chiropractic in an underserved area in Iowa.
- b. Repayment of the borrower's loan obligation may be deferred under the following circumstances: *return to full-time study*; active duty in the United States military service,

not to exceed three years; *or* during a period of temporary disability, not to exceed three years.

- c. Repayment of the borrower's loan obligation under this loan program is not required during periods of enrollment as a student at Palmer College of Chiropractic the college or while fulfilling the physician service requirement.
 - d. to f. No change.
- 32.1(10) (9) Restrictions. A borrower who is in default on a Stafford Loan, SLS Loan, Perkins/National Direct/National Defense Student Loan, Health Professions Student Loan (HPSL), or Health Education Assistance Loan (HEAL) or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan payments. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapter 5, Iowa Administrative Code.

This rule is intended to implement Iowa Code section 261.71.

ARC 2432B

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to amend Chapter 35, "Teacher Shortage Forgivable Loan Program," Iowa Administrative Code.

The proposed amendments, which clarify the rules, are made pursuant to Executive Order Number 8. The amendments do not materially affect the administration of the program.

Interested persons may submit comments orally or in writing by 4:30 p.m. on May 20, 2003, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)242-3344.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

The following amendments are proposed.

Amend 283—Chapter 35 as follows:

CHAPTER 35 TEACHER SHORTAGE FORGIVABLE LOAN PROGRAM

283—35.1(261) Teacher shortage forgivable loan program. The teacher shortage forgivable loan program is a state-supported and administered forgivable loan program for Iowans enrolled as undergraduate or graduate students in designated teacher shortage areas as certified by the director of the Iowa department of education.

35.1(1) Definitions. As used in this chapter:

"Eligible institution" means an institution of higher learning *located in Iowa* under the control of the state board of regents or a North Central Association of Colleges *and Schools*

(NCA) accredited independent institution as defined in Iowa Code section 261.9.

"Iowa resident student" means an individual who meets the criteria used by the state board of regents to determine residency for tuition purposes, 681 IAC 1.4(262).

"Located in Iowa" means a college or university accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools, that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

"Practitioner" means an administrator, teacher, or other licensed professional who does not hold or receive a license from a professional licensing board other than the board of educational examiners and who provides educational assistance to students.

"Practitioner preparation program" means a program approved by the state board of education which prepares a person to obtain a license as a practitioner.

"Teacher" means a licensed member of a school's instructional staff who diagnoses, prescribes, evaluates, and directs student learning in a manner consistent with professional practice and school objectives, shares responsibility for the development of an instructional program and any coordinating activities, evaluates or assesses student progress before and after instruction, and who uses the student evaluation or assessment information to promote additional student learning

35.1(2) Student eligibility.

- a. An applicant must be an Iowa resident who is enrolled as a sophomore, junior, senior, or graduate student at an eligible Iowa regent university or independent college or university in an approved practitioner preparation program designated as a teacher shortage area as defined by the Iowa department of education.
 - b. No change.
- An applicant Applicants must complete and file an application applications for the teacher shortage forgivable loan program. Applicants must submit the application by the deadline established by the commission. If funds remain available after the application deadline, the commission will continue to accept applications.

d. and e. No change.

35.1(3) No change.

35.1(4) Promissory note. Loan recipients shall sign promissory notes agreeing to teach in a designated teacher shortage area areas or the teacher shortage area for which the loan was loans were approved in Iowa for five years or to repay the loan loans and accrued interest according to repayment terms specified in the note notes.

35.1(5) No change.

35.1(6) Disbursement of loan proceeds.

a. No change.

b. Loan checks proceeds will be made copayable to the borrower and institution and distributed to the institution's financial aid officials and applied directly to the borrowers' tuition accounts.

35.1(7) Loan cancellations.

a. Thirty days following graduation, termination of enrollment at the student's institution, or termination of fulltime teaching in a designated teacher shortage area or the teacher shortage area for which the loan was approved in Iowa, the borrower shall notify the commission of the nature of the borrower's employment and educational status.

- b. To certify eligibility for cancellation, the borrower must submit to the commission an affidavit from the borrower's school district verifying that the borrower taught fulltime in confirmation of employment in a designated teacher shortage area, or the teacher shortage area for which the loan was approved, in an Iowa school district or an accredited nonpublic school. The borrower's loan amount, including principal and interest, shall be reduced by 20 percent for each year of full-time teaching in a designated teacher shortage area or the teacher shortage area for which the loan was approved. Borrowers will receive loan cancellation for lessthan-full-time shortage area teaching positions. The parttime employment percentage multiplied by 20 percent equals the percent of the loan forgiven for a given year. Part-time employment will extend the five-year teaching requirement. *Credit will not be given for substitute teaching assignments.*
 - c. and d. No change.
- e. Borrowers may not receive credit for teaching until they have graduated from the education program for which forgivable loan proceeds have been received.

35.1(8) Loan payments.

a. No change.

- b. It shall be the borrower's responsibility to remit payments to the commission by the fifteenth day of each month as required by the repayment schedule.
- c. No change.d. The borrower is responsible for notifying the commission immediately of a change of in name, place of employment, or home address.

35.1(9) Deferral of repayment.

a. Repayment of the borrower's loan obligation may be deferred under the following circumstances: return to fulltime study; active duty in the United States military service, not to exceed three years; or a period of temporary disability, not to exceed three years.

b. and c. No change.

35.1(10) No change.

This rule is intended to implement Iowa Code section 261.111 as amended by 1999 Iowa Acts, Senate File 464, section 41.

ARC 2431B

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to amend Chapter 36, "Governor Terry E. Branstad Iowa State Fair Scholarship Program," Iowa Administrative Code.

The proposed amendments, which clarify the rules, are made pursuant to Executive Order Number 8. The amendments do not materially affect the administration of the program.

Interested persons may submit comments orally or in writing by 4:30 p.m. on May 20, 2003, to the Executive Director,

College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)242-3344.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

The following amendments are proposed.

Amend 283—Chapter 36 as follows:

CHAPTER 36 GOVERNOR TERRY E. BRANSTAD IOWA STATE FAIR SCHOLARSHIP PROGRAM

283—36.1(77GA,ch1215) Governor Terry E. Branstad Iowa state fair scholarship program. The Governor Terry E. Branstad Iowa state fair scholarship program is a privately funded scholarship program for Iowa residents who actively participate in the Iowa state fair and enroll as undergraduate students in an eligible institution Iowa institutions.

36.1(1) Definitions. As used in this chapter:

"Eligible institution" means an institution of higher learning *located in Iowa* under the control of the state board of regents, a North Central Association of Colleges *and Schools* (NCA) accredited independent institution as defined in Iowa Code section 261.9, or a state-supported community college.

"Iowa resident student" means an individual who meets the criteria used by the state board of regents to determine residency for tuition purposes, 681 IAC 1.4(262).

"Located in Iowa" means a college or university accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools, that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

36.1(2) and **36.1(3)** No change.

36.1(4) Monetary award.

- a. The maximum award to an eligible student is \$1,000, or the amount of the Up to four awards ranging from \$500 to \$1,000 will be awarded annually. No student shall receive more than the student's established financial need, whichever is less.
- b. A maximum of four recipients will be chosen each year. The selection committee may select fewer recipients in any given year.
- e. b. A scholarship of up to \$2,000 will be awarded each year to the Iowa state fair queen.
- d. c. The Governor Terry E. Branstad Iowa state fair scholarship fund will be established in the office of the state treasurer. Only the interest earned on the scholarship fund will be used for scholarship awards.
- **36.1(5)** Restrictions. An applicant who is in default on a Stafford Loan, SLS Loan, Perkins/National Direct/National Defense Student Loan, Health Professions Student Loan (HPSL), or Health Education Assistance Loan (HEAL) or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for this scholarship. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapter Chapters 4 and 5, Iowa Administrative Code.

This rule is intended to implement 1998 Iowa Acts, chapter 1215 Iowa Code section 261.24.

ARC 2453B

ENERGY AND GEOLOGICAL RESOURCES DIVISION[565]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 473.7(8), the Department of Natural Resources hereby gives Notice of Intended Action to rescind Chapter 4, "Permanent Assignment of Petroleum Products," Chapter 7, "Energy Measures and Energy Audits Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions," Chapter 8, "Technical Assistance and Energy Conservation: Grant Programs for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions," Chapter 16, "Solar Energy and Energy Conservation Bank," and Chapter 17, "Building Energy Management for State and Local Government"; to amend Chapter 18, "State Energy Conservation Program and Energy Extension Service"; and to rescind Chapter 19, "Grants to Nonprofit and Local Government Housing Organizations," Iowa Administrative Code.

The rules to be amended describe limitations and programs designed to promote energy efficiency and renewable energy applications in schools, local government, and buildings owned by nonprofit organizations and public care institutions. These amendments are intended to bring the Department's rules into conformity with the current requirements of the U.S. Department of Energy. The chapters which are to be rescinded are either no longer authorized or no longer funded by the federal Department of Energy. Some subrules from these chapters have been retained through their incorporation into previously amended Chapters 5 and 6.

Any interested person may make written suggestions or comments on these proposed amendments on or before May 20, 2003. Such written materials should be directed to Angela Chen, Energy and Waste Management Bureau, Department of Natural Resources, Des Moines, Iowa 50319-0034; fax (515)281-8895. Persons wishing to convey their views orally should contact Angela Chen at (515)281-4736 or at the Energy and Waste Management Bureau, Wallace State Office Building.

Also, there will be a public hearing on May 22, 2003, from 9 to 11 a.m. in the Fifth Floor Conference Rooms of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 473.

The following amendments are proposed.

ITEM 1. Rescind and reserve 565—Chapter 4.

ITEM 2. Rescind and reserve **565—Chapter 7**.

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ITEM 3. Rescind and reserve 565—Chapter 8.

ITEM 4. Rescind and reserve 565—Chapter 16.

ITEM 5. Rescind and reserve **565—Chapter 17**.

ITEM 6. Amend **565—Chapter 18**, title, as follows:

CHAPTER 18

STATE ENERGY CONSERVATION PROGRAM AND ENERGY EXTENSION SERVICE

ITEM 7. Amend rule 565—18.1(473) as follows:

565—18.1(473) Scope of authority and purpose. The state energy conservation program and energy extension service are is established to promote energy conservation management improvements by all Iowa consumers. Funds for these programs this program are made available through annual grants from the U.S. Department of Energy and from other sources determined by the Iowa legislature. These The funds are administered by the energy and geological resource environmental services division of the department of natural resources.

The state energy conservation program was enacted under Title III of the Energy Policy and Conservation Act, Public Law 94-163, amended by Title IV of the Energy Conservation and Production Act, Public Law 94-385. Regulations were promulgated in 10 CFR part Part 420 on February 20, 1976.

The EES was established on June 3, 1977, by Title V of Public Law 95-39.

These two programs were *The program was* enacted to develop and implement a comprehensive program for the identification, development and demonstration of energy conservation *efficiency* and alternative energy opportunities to meet local needs and to utilize local resources.

The purpose of these programs the program is to comply with five federally required program measures, to demonstrate energy efficiency within state government, to develop and promote community energy management models, to provide energy information and education for Iowa consumers, to support the development and use of Iowa energy resources, and to evaluate procedures to improve marketing effectiveness and operation efficiency.

The department of natural resources will annually submit to the U.S. Department of Energy a combined state implementation energy plan and grant application. The combined plan will qualify the department to receive an annual federal grant for the next fiscal year (July 1 through June 30) and to implement the program measures described in the plan.

ITEM 8. Amend rule 565—18.2(473) as follows:

565—18.2(473) Definitions.

"Energy conservation management" means efficient energy use or the utilization of renewable energy resources which results in a net reduction in the use of nonrenewable energy resources.

"Energy conservation measure management improvement" means an activity which is intended to reduce energy consumption or installation of a renewable energy resource as prescribed in Subpart D of 10 CFR part Part 450.

"Grantee" means the state or other entity named in the notice of financial assistance award as the recipient.

"Plan" means a state implementation energy plan for the state energy conservation program and energy extension service including required program measures and otherwise meeting the applicable federal guidelines.

"Program measure" means one or more actions by the state of Iowa, designed to effect energy conservation management improvements, excluding actions in areas specifically covered by national energy conservation programs.

ITEM 9. Amend rule 565—18.3(473), introductory paragraph, as follows:

565—**18.3(473) General.** The department of natural resources will administer the state energy conservation program and energy extension service will set forth the conditions and requirements that are applicable in the combined state implementation energy plan which is based on federal guidelines and which is approved annually by the federal funding agency.

ITEM 10. Amend subrule 18.3(1) as follows:

18.3(1) Goals and purposes. The goals and purposes of these programs the program are as follows: to improve the state economy by striving for energy independence, to increase the efficient use of energy resources, to substitute nonrenewable energy with Iowa energy resources, to improve the standard of living through energy management, to coordinate energy conservation management activities throughout the state, to minimize adversity resulting from energy shortfalls, to recommend legislation that will improve Iowa's energy conservation management climate, to provide continuing information and education about energy conservation management, to effectively market energy conservation management opportunities, and to develop monitoring and evaluation procedures that will assure ensure continued improvement in program effectiveness.

ITEM 11. Amend subrule 18.3(2), introductory paragraph, as follows:

18.3(2) Program measures. Several program measures will be used to accomplish these goals and purposes. Program measures may include training and education, the creation of new energy-related jobs, demonstrations and pilot projects, a toll-free energy hotline, developing and distributing literature, financial and technical assistance, and other activities.

ITEM 12. Amend rule 565—18.4(473), introductory paragraph, as follows:

565—18.4(473) State implementation energy plan. Each year the department shall submit a combined SECP and EES state energy plan and grant application to the U.S. Department of Energy. The plan will describe all program measures to be implemented during the coming fiscal year (July 1 through June 30) and will comply with federal guidelines. Upon approval by the U.S. Department of Energy, this plan becomes the document that authorizes federal funding and the implementation of the proposed program measures. A copy is available from the department upon request.

ITEM 13. Amend rule 565—18.5(473), introductory paragraph, as follows:

565—**18.5**(473) Eligibility. All residents of the state of Iowa are eligible to propose program measures and to receive the benefits and services provided by the state energy conservation program and energy extension service. Assistance shall be provided in the form of program measures that will have an immediate and substantial effect in reducing the rate of growth in Iowa energy demand.

ITEM 14. Amend subrule 18.5(1) as follows:

18.5(1) Proposals. To be eligible to receive a financial grant for the development and implementation of a program measure, an applicant must submit a proposal that meets all

ENERGY AND GEOLOGICAL RESOURCES DIVISION[565](cont'd)

of the requirements specified in a Request for Proposals. To accomplish the goals and purposes as set forth in the plan, proposals will be solicited statewide from the greatest number of individuals and organizations that can be identified, or the request for proposal will be published in newspapers. A toll-free telephone number, 800-532-1114, is available for interested parties to obtain more information or assistance.

Project proposals will include:

- 1. A description and cost estimate of the proposed program measure(s);
- 2. An explanation of the benefits to be gained from the projects;
- 3. An explanation and justification of need for the programs;
 - 4. A proposed schedule of when funds will be needed;
- 5. A proposed plan with an activity time schedule and sources of funds.

ITEM 15. Amend subrule 18.5(2) as follows:

- 18.5(2) Criteria for selection. The energy and geological resources environmental services division shall review each proposal and shall select the projects to be recommended for approval by the department. Criteria for evaluating proposals and awarding contracts are included in each Request for Proposal. These criteria are pertinent to specific objectives targeted by each RFP and include a point system for evaluation. Criteria may include, but will not be limited to, proposals which:
 - 1. Foster coordination among Iowans;
 - 2. Enhance economic development;
- 3. Increase investments to energy conservation management;
- 4. Extend service/assistance to the disadvantaged or areas/sectors not served before;
 - 5. Document estimated energy savings;
 - 6. Provide for matching funds.

Proposals will be reviewed and evaluated by a panel of not less fewer than three persons with general knowledge of the applicable energy conservation management field but without personal interest in the proposal or the applicants.

ITEM 16. Rescind and reserve **565—Chapter 19**.

ARC 2455B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.6, the Department of Human Services proposes to amend Chapter 83, "Medicaid Waiver Services," Iowa Administrative Code.

This amendment lowers the age for eligibility for supported employment services under the Medicaid home- and community-based mental retardation waiver from 18 to 16. Under existing rules applicable to all age groups, supported employment services are payable only if the consumer is not eligible for supported employment services from other fund-

ing sources. Area education agencies normally provide needed vocational services to 16- and 17-year-olds.

This amendment will allow the Medicaid waiver program to pay for services such as work-related behavior management, job coaching, or on-the-job crisis intervention if a 16-or 17-year-old consumer is not eligible for supported employment services from the local area education agency or other funding source.

Currently, waiver recipients who need such services but are 16 or 17 years old have been approved through an exception to policy. This amendment would allow supported employment services to be included in the service plan for any mental retardation waiver recipient who is 16 or 17 years old if the services are judged necessary by the interdisciplinary team that develops the plan. The total cost of all of the youth's waiver services must remain under the maximum set for the waiver.

This amendment does not provide for waivers in specified situations because it confers a benefit on the people affected and because it is mandated by state legislation. Any consumer may request an exception to HCBS waiver policies under the Department's general rule at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendment on or before May 21, 2003. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement 2002 Iowa Acts, chapter 1120, section 7, subsection 2. There has been a delay in filing this rule because it was combined with another rule that was deferred.

The following amendment is proposed.

Amend subrule **83.61(1)**, paragraph "g," subparagraph **(1)**, as follows:

(1) Be at least age 18 16.

ARC 2450B

LOTTERY DIVISION[705]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 99E.9(3), the Lottery Division proposes to amend Chapter 1, "General Operation of the Lottery," and Chapter 4, "Purchasing," Iowa Administrative Code.

All prospective lottery employees are required to undergo and pass a criminal history background check, and candidates for key positions are required to go through more extensive criminal and financial background checks. Such background checks are required in order to protect the integrity of lottery operations. Rule 705—1.30(99E) is being adopted in order to reflect current practices already in place at the Lottery with respect to background checks of prospective employees.

Chapter 4 is being amended for two reasons. The general purchasing rules are being amended so that they reflect

changes in procurement practices that have occurred as technology has evolved and as a result of changes made in the Department of General Services' administrative rules. Additionally, changes are being made in the rules related to major procurements to ensure that they are in compliance with Iowa Code sections 72.3, 99E.9(2), and 99E.9(3). Iowa Code section 99E.9(2) was recently amended and requires that the scope of the background checks performed on vendors be defined in the Lottery Division's administrative rules.

The Lottery Division received comments on the scope of the vendor background checks from current and potential vendors. These comments were taken into consideration while these rules were being revised. Also, in order to ensure stakeholder involvement as anticipated in Executive Order Number 8, a complete copy of the Lottery Division's administrative rules was furnished to each retail licensee in January 2000, along with an invitation to review the rules and comment via a survey that accompanied the rules package. The invitation also was carried as an item in Lottery Action, the Lottery's retailer news publication. The proposed amendments have been and remain posted on the Lottery's Web site, www.ialottery.com.

Any interested party may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request must include all of the following: the name, address, and telephone number of the party making the comments or request; a reference to the specific proposed amendments that are the subjects of the comments or request; and the general content of a requested oral presentation.

All comments or requests should be addressed to the Iowa Lottery Rules Administrator and should either be mailed to 2015 Grand Avenue, Des Moines, Iowa 50312, faxed to (515)281-7882, or E-mailed to web.master@ilot.state.ia.us. All comments or requests for oral presentations must be received by the Lottery Rules Administrator no later than May 20, 2003.

A meeting to hear requested oral presentations is scheduled for May 22, 2003, at 9 a.m. at the address listed above. The meeting will be canceled without further notice if no oral presentations are requested.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and chapter 99E.

The following amendments are proposed.

ITEM 1. Adopt <u>new</u> rule 705—1.30(99E) as follows:

705—1.30(99E) Employee background investigation. The commissioner shall require a background investigation by the department of public safety division of criminal investigation in connection with the employment of lottery personnel. Background investigations to be conducted are as follows:

1.30(1) Standard background investigations. The commissioner shall require a standard division of criminal investigation background investigation of any prospective lottery employee, consisting of a state criminal history background check, work history, and financial review.

1.30(2) Key position background investigations. The commissioner may require a full division of criminal investigation background investigation of any candidate for employment in a key position, consisting of a work history and financial review and a national Federal Bureau of Investigation criminal history background check.

The term "key position" is intended to include those positions in which the incumbents develop and direct implementation of policy and those in which the incumbents have policy or operational management responsibilities, security

duties, or system maintenance or programming responsibilities related to the lottery's data processing or network hardware, software, communications, or related systems. For purposes of this rule, key positions include but are not limited to lottery vice presidents, accounting managers, security investigators, and all information technology positions.

1.30(3) Alternative sources for business entity investigations. In lieu of a division of criminal investigation standard or full background investigation, or any component thereof, the commissioner, at the commissioner's discretion and in cooperation with the division of criminal investigation, may accept a report furnished by the division of criminal investigation based on information furnished by authorities in another state of a recent, comparable investigation conducted by said authorities communicated between law enforcement agencies, which may be updated with any information reflecting changes during the interim between the Iowa and the earlier investigations.

This rule is intended to implement Iowa Code sections 99E.3(3), 99E.9(2) and 99E.9(3).

ITEM 2. Amend rule 705—4.1(99E) as follows:

705—4.1(99E) Applicability of competitive bidding. All "major procurements" shall be obtained as a result of competitive bidding. "Major procurements" includes consulting agreements and the major procurement contract with a business organization for the printing of tickets or for the purchase or lease of equipment or services essential to the operation of a lottery game.

Items, including goods or services, other than "service" or "services" as defined in rule 401—12.3(18) and "major procurements," which that are expected to cost in the aggregate in excess of \$500 \$2500 will be obtained as a result of a formal or informal competitive bidding process conducted by the lottery or through the department of general services whenever feasible and when such procurement is in the best interests of the lottery. Items other than major procurements expected to cost less than \$500 \$2500 in the aggregate may be obtained in any manner deemed appropriate by the lottery.

The lottery may exempt an item from competitive bidding if the item is noncompetitive, σ is purchased in quantities too small to be effectively purchased through competitive bidding, if there is an immediate or emergency need for the item, if the purchase of the item facilitates compliance with set-aside procurement provisions, or if the lottery determines that the best interests of the lottery will be served by exemption from the bidding process and the item to be purchased is not a major procurement.

This rule is intended to implement Iowa Code sections 99E.9(2) and 99E.9(3).

ITEM 3. Amend rule 705—4.2(99E) as follows:

705—4.2(99E) Methods of obtaining bids or proposals used by the lottery. Bids Formal or informal bids or proposals are to be obtained by one of the following methods. If more than one method is applicable to the purchase of a particular item, the lottery shall choose the method of bidding to be utilized.

4.2(1) Formal bids may be required for any item, other than for "service" or "services" as defined by rule 401—12.3(18), if cost is the major criterion for selection. If cost is the major criterion for selection, formal bids shall be required for all items costing in the aggregate more than \$5000.

The lottery shall prepare a written invitation-to-bid form document and shall mail the form, along with a specially marked return envelope or identifying label to be used on the return envelope, send it via the United States Postal Service

or electronic mail to selected vendors in the business of providing the goods or services sought by the lottery. Goods or services may also be obtained by the lottery using reverse auction methods via the lottery's Internet Web site.

The invitation to bid shall contain the due date and time of the bid opening, a complete description of the item needed, and any other necessary or proper items.

Bids Formal bids, other than major procurement sealed bids, received prior to the time set for the bid opening on submission deadline set in the bidding document shall be opened publicly and made available to any interested party on the date and hour designated on the bid form. As the bids are opened they will be tabulated, and the results of the tabulation shall be made available to any interested party. The original bids and the tabulations will be maintained at the lottery for one year following the date on which the bids were opened.

An award shall be made within 60 calendar days from the date of the bid opening unless a different time frame is stated by the lottery in the invitation to bid or subsequently agreed to by the vendors. The price quoted by the vendors shall remain binding throughout the applicable time period. If an award is not made within the applicable time frame, all bids shall be deemed rejected.

4.2(2) Informal bids may be required for any item, other than for "service" or "services" as defined in rule 401-12.3(18), if cost is the major criterion for selection and if the item is expected to cost in the aggregate more than \$2500 but less than \$5000. Informal bids may be obtained by the lottery either through use of a written bid form, or over the telephone, via facsimile transmission, or in electronic format, including over the Internet or through electronic mail. When requesting informal bids, the lottery shall contact selected vendors supplying the goods or services sought by the lottery and shall communicate to each vendor the date on which bids must be received, a complete description of the item to be purchased, and the time period during which the bid must remain valid. Goods or services may also be obtained by the lottery using reverse auction methods via the lottery's Internet Web site.

Written informal bids shall be opened as received and informal telephone, facsimile, or electronic bids shall be recorded as received. If a bid is received over the telephone, a telephone bid form shall be used to record the bid received. If an electronic bid is received, a screen print shall be used to record the bid received. Following the bid due date submission deadline, the lottery shall tabulate the bids received and make the award. The bids and the tabulations shall be available to interested parties after the bid due date submission deadline and shall be maintained by the lottery for one year following the date on which the bids were due submission deadline

If an award is not made within the time frame indicated by the lottery when requesting bids, all bids shall be deemed rejected.

4.2(3) Whenever a requirement exists for an item *or a major procurement* and cost may not be the sole criterion for selection, the lottery may issue a request for proposal. The purpose of a request for proposal is to provide the vendor with sufficient information about the lottery's requirements and goals to allow the vendor to propose a solution to the lottery's requirements.

The lottery shall prepare a written request for proposal and shall mail send the proposal via the United States Postal Service or electronic mail, along with a specially marked enve-

lope or label, to selected vendors in the business of supplying the goods or services sought by the lottery.

Proposals shall be opened publicly at the time designated in the proposal and made available to any interested party on the date and hour designated in the proposal.

The lottery requires that bids submitted in response to a request for proposal in a major procurement for award of a contract for the printing of tickets or for the purchase or lease of equipment or services essential to the operation of a lottery game be submitted as sealed bids. The contents of sealed bids shall be made available to any interested party at the time designated in the request for proposal. A bidder shall identify with clear markings the pages, sections, or documents submitted as part of a proposal package that the bidder claims are exempt from disclosure because they contain sensitive business or trade secret information.

To ensure the fairness and integrity of the evaluation process, the lottery may elect to evaluate and score any of the technical, financial, security, and marketing components of major procurement sealed bid proposals prior to opening and integrating the scoring of the pricing component. When scoring has been completed, the evaluation team shall prepare a recommendation report for an award and, if applicable, for rejection of any or all proposals under consideration. The recommendation report shall be submitted to the commissioner and the lottery board for such action as the commissioner and board may deem appropriate. The report shall be made available to any interested person immediately upon transmittal to the commissioner and the board. Prior to making an award, the board and commissioner shall receive and consider the results of a background investigation conducted by the department of public safety division of criminal investigation.

An award shall be made within 60 calendar days from the date of the proposal opening unless a different time frame is stated by the lottery in the request for proposal or subsequently agreed to by the vendors. The terms quoted by the vendor shall remain binding throughout the applicable time frame. If an award is not made within the applicable time frame, all proposals shall be deemed rejected and not binding.

At a minimum, a request for proposal shall address the following criteria: the need for a proposal conference; the purpose and background of the request; important dates in the proposal and the award process including the due date for the proposal and the date and hour of the proposal opening submission deadline; administrative requirements for submitting the proposal and the format required by the lottery; the scope of the work to be performed and any specific requirements which the vendor must meet; and any contractual terms and conditions which the lottery anticipates may affect the terms of the vendor's proposal.

This rule is intended to implement Iowa Code sections 72.3, 99E.9(2), and 99E.9(3).

ITEM 4. Amend rule 705—4.12(99E) as follows:

705—4.12(99E) Time of submission. All formal bids and proposals shall be submitted by the vendor in sufficient time to actually reach the lottery prior to the date and time set for the opening of the bids or proposals submission deadline specified in the bid document. All informal bids shall be submitted by the vendor in time to reach the lottery prior to the time specified submission deadline indicated by the lottery. Bids Formal bids and proposals shall be marked by the lottery with the date and time received by the lottery. Bids Formal bids and proposals received after the date and time set for opening or for submission deadline shall be returned to the

vendor unopened. All vendors to whom invitations to bid or requests for proposals are sent shall be notified of any changes in the time of submission deadline.

If a formal invitation to bid or request for proposal is canceled prior to the time set for opening the bids or proposals submission deadline, any responses already received shall be returned unopened. If an informal invitation to bid is canceled prior to the time set for receiving bids submission deadline, any bids already received shall be destroyed.

This rule is intended to implement Iowa Code sections 99E.9(2) and 99E.9(3).

ITEM 5. Rescind rule 705—4.16(99E) and adopt the following <u>new</u> rule in lieu thereof:

705—4.16(99E) Background and informational statements.

4.16(1) Criminal history and background checks.

- a. All bidders for major procurements, as defined in Iowa Code section 99E.9, and any other bidders that the commissioner, in the commissioner's sole discretion, may require (hereinafter "bidder") shall submit to lottery business entity criminal history checks and background investigations (hereinafter "bidder investigations") as conditions for submission of a bid.
- b. Bidders for major procurements shall be required to describe their organizational structure, identify key personnel, and submit key personnel to lottery bidder key personnel investigations.
- c. Bidders that are not bidders for major procurements may be required to describe their organizational structure, identify key personnel, and submit key personnel to lottery bidder key personnel investigations.
- d. For all bidders, any change in key personnel during the bidding process or during the contract term must be reported to the lottery division before the change occurs. Replacement personnel will be subject to investigation.
- e. If, during the course of any investigation, it is determined that either a bidder for a major procurement or any persons employed by or associated with a bidder for a major procurement who are the subjects of key personnel investigations in accordance with subrule 4.16(3) have been convicted of any state or federal felony, the bidder will be automatically disqualified from the selection process without further investigation.

4.16(2) Bidder investigations.

a. General provisions. The Iowa lottery major procurement business entity background investigation form (Class L form) must be completed for each bid submitted in response to a lottery major procurement solicitation.

The Class L form shall be posted on the lottery's Web site and is intended to serve both as a vehicle for collection of information pertaining to bidders and as an overview of the scope of the bidder investigations to be conducted.

The department of public safety division of criminal investigation shall utilize the information provided in the Class L form as the basis for developing the initial scope of the bidder investigation and due diligence to be conducted with respect to a bidder. Should the division of criminal investigation desire to pursue avenues of inquiry beyond the parameters of the information requested by and furnished in the Class L form, the division of criminal investigation shall consult with the lottery commissioner, or the commissioner's designee, who shall determine the scope and extent of any further investigation to be pursued.

b. Class L form requirements. The Class L form shall solicit the following information:

- (1) The names, addresses, and telephone numbers of all persons who gathered information and prepared the Class L form on behalf of the bidder; the name, address and type of business entity on whose behalf the Class L form is furnished; and the name and telephone number of a contact person for purposes of the procurement.
- (2) The location of the bidder's business records; the state and date of incorporation or establishment of the bidder; the federal and state employer identification numbers of the bidder; the names and addresses of any parent companies, subsidiaries, or affiliates of the bidder; whether the bidder's stock is publicly or closely held; and a copy of the articles of incorporation or charter, bylaws, organizational chart, corporate certificate, or partnership agreement of the bidder, as may be applicable.
- (3) The following information for each corporate officer and director and, if not a publicly held corporation, each partner (general or limited) or stockholder holding 5 percent or more of the outstanding stock of the bidder: names; positions held; business and residence addresses and telephone numbers; dates of birth; social security numbers; percentage of stock held; amount of compensation received from the bidder in excess of \$10,000, including but not limited to salary or wages, director's fees, and stock options and dividends; and designation as to whether the named person will be empowered with signature authority to legally bind the bidder in the context of the procurement process with respect to which the disclosure of information is furnished.
- (4) The identity of any other persons not named in subparagraph (3) above who will be empowered with signature authority to legally bind the bidder in the context of the procurement process with respect to which the disclosure of information is furnished.
- (5) If the bidder is a publicly held corporation, a copy of the bidder's most recent annual report.
- (6) The name and address of each officer, director, partner or stockholder actively involved in the conduct of the day-to-day operation of the bidder.
- (7) The name and address of the internal certified public accountant employed by the bidder and the name, address, and telephone number of the external certified public accountant employed by the bidder.
- (8) A list of all criminal proceedings and civil proceedings predicated in whole or part on alleged criminal activity involving the bidder during the ten-year period immediately preceding the submission date of the Class L form.
- (9) Whether the bidder or any subsidiary, parent, intermediary, holding company or related corporation of the bidder is or has been the subject of a criminal or grand jury investigation, or has been indicted, convicted, or arrested for any criminal offense within the last seven years. An explanation of any such occurrence shall be furnished and shall include the dates of the occurrences, any governmental agencies involved, and descriptions of the nature and the dispositions of the investigations, indictments, convictions, or arrests.
- (10) Whether any officer or director of the bidder or any subsidiary, parent, intermediary, holding company or related corporation of the bidder is or has ever been the subject of a criminal or grand jury investigation, or has been indicted, convicted, or arrested for any criminal offense. An explanation of any such occurrences shall be furnished and shall include the dates of the occurrences, any governmental agencies involved, and descriptions of the nature and the dispositions of the investigations, indictments, convictions, or arrests.

- (11) A list of any proceedings within the last five years involving allegations against the bidder or its officers or directors of antitrust violations, trade regulation violations, security judgments, and insolvency proceedings.
- (12) A list of any license denials, suspensions, or revocations within the last seven years involving any officers or directors of the bidder.
- (13) Whether the bidder has sustained a loss within the last ten years in which an insurance payment of \$50,000 or more was received; a detailed explanation listing the nature, date and disposition of the incident; and the name and address of the insurance company that made the settlement.
- (14) Whether the bidder sustained a loss by fire in which arson was suspected within the past ten years; if so, a detailed explanation listing circumstances surrounding the fire and the name and address of the investigating agency should also be included.
- (15) A list of any application to or any permit, license, certificate or qualification from a licensing agency in Iowa or any other state or other jurisdiction in connection with any gambling venture in which the bidder or any subsidiary, parent, intermediary, holding company, or related corporation of the bidder has been involved. The list should include the date of application; the name and address of the licensing agency; the type and number of the license; and the disposition (approval, rejection, or withdrawal) of any such application. For purposes of this paragraph, "gambling venture" means all types of racing and gaming activities, including but not limited to dog track, horse track, greyhound racing, horse racing, lottery, casino, and pari-mutuel operations.
- (16) Whether the bidder has ever petitioned for or declared bankruptcy or insolvency within the last seven years; if so, the filing date, docket number, and name and address of the court in which the petition or declaration was filed, and the name and address of the filing party and of the trustee should also be included.
- (17) Copies of any audited financial statements and auditors' reports for the bidder and any subsidiaries for each entity's last fiscal year, or if the entity does not normally have its financial statements audited, copies of unaudited financial statements for the last two fiscal years.
- (18) A list of all holding companies, business organizations, other business entities, or individuals that hold any financial interest of 5 percent or more in the bidder. This list shall describe the nature, type, terms, covenants, and priorities of any outstanding bonds, loans, mortgages, trust deeds, notes, debentures, or other forms of indebtedness issued or executed, which mature more than one year from the date of issuance.
- (19) A list and copies of all notes and mortgages or other instruments of outstanding long-term debt of the bidder, with the name and address of the entity owed and the amount and purpose of each such mortgage or debt.
- (20) A list of all dormant or shell company names used or owned by the bidder within the past ten years.
- (21) A list of any financial or ownership interest in any gambling venture in any jurisdiction that the bidder and any parent or subsidiary owns or holds and a description of the nature and the percentage of each interest owned or held. For purposes of this paragraph, "gambling venture" means all types of racing and gaming activities, including but not limited to dog track, horse track, greyhound racing, horse racing, lottery, casino and pari-mutuel operations.
- (22) A list of all political contributions made by or on behalf of the bidder and any parent or subsidiary to any candidate for any office or position in any jurisdiction in the state

- of Iowa during the last two years. The list should include the candidate's name, the office or position for which the candidate is or was running, and the amount and date of the contribution.
- (23) A list of all Iowa lobbyists and political consultants utilized by the bidder and any parent or subsidiary of the bidder, the names of individuals employed by the bidder and any parent or subsidiary who act as liaisons with the lobbyists or political consultants, and descriptions of fee arrangements made with the lobbyists or political consultants. Also included should be a statement identifying any cash fund established with respect to an Iowa lobbyist or political consultant; any pledge of any items of monetary value to a lobbyist or political consultant as a reward for obtaining commission approval of a contract; and any cash transferred in any manner to an attorney's trust account for dispersal to an Iowa lobbyist or political consultant.
- (24) An organizational chart of the bidder showing its relationship to existing parent, subsidiary, and affiliated companies.
- (25) A list of all persons or business entities with which the bidder has contracts or agreements worth \$1 million or more that exceed one year in duration.
- (26) Authorization, in any form or forms approved by the division of criminal investigation and executed by a competent signatory of the bidder, for a review, full disclosure, and release of any and all records concerning the bidder, including but not limited to verification of filing and outstanding balance status of federal income tax returns.
 - **4.16(3)** Bidder key personnel investigations.
- a. General provisions. The commissioner may require a full lottery Class L-1 department of public safety division of criminal investigation background investigation for any person identified as an officer, director, trustee, partner, sole proprietor, employee or other person by the lottery or the division of criminal investigation as a key person in a sensitive position or relationship with a bidder in a major procurement, as defined in rule 4.1(99E).

The lottery Class L-1 form shall be posted on the lottery's Web site, and is intended to serve as a vehicle for collection of background information and as an overview of the scope of the background investigations to be conducted.

The division of criminal investigation shall utilize the information provided in the lottery Class L-1 form as the basis for developing the initial scope of the key personnel investigation and due diligence to be conducted. Should the division of criminal investigation desire to pursue avenues of inquiry beyond the parameters of the information requested by and furnished in the lottery Class L-1 form, the division of criminal investigation shall consult with the commissioner, or the commissioner's designee, who shall determine the scope and extent of any further investigation to be pursued.

- b. Class L-1 form requirements. The lottery Class L-1 form shall solicit the following information about key personnel selected to be investigated (hereinafter "subject"):
- (1) The subject's name, business and residence addresses and telephone numbers, date and place of birth, social security number, height, weight, eye color, sex, and any past or present aliases used.
- (2) The name and address of the subject's present employer, the subject's job title and a summary of duties, and the subject's supervisor.
 - (3) The subject's citizenship or alien residence status.
- (4) A ten-year residential history of the subject, including addresses, dates, ownership or rental status, and landlord's or

mortgage holder's name(s), address(es), and telephone number(s).

- (5) The subject's marital status and, if applicable, the subject's spouse's full name, including maiden (if applicable), business and residence addresses and telephone numbers, date and place of birth, occupation, and the name and address of the spouse's present employer.
- (6) Whether the subject has been divorced, legally separated, or had a marriage annulled and, if applicable, the name, birth date, and current address, if known, of the subject's spouse or former spouse, the date and place of any applicable judicial order, and the nature of the action should be listed.
- (7) The full names, including maiden (if applicable), dates of birth, and addresses of all the subject's children, including stepchildren and adopted children.
- (8) The full names, including maiden (if applicable), dates of birth, most recent occupations, or retired status (if appropriate), and addresses of all parents, parents-in-law, legal guardians, and siblings of the subject. If any such person is deceased, that person's date of death, last address, and last occupation should also be given.
- (9) The subject's educational background, including the names, types, and locations of any schools attended, dates of attendance, and graduation status, certificates, or degrees obtained. For purposes of this paragraph, "schools" includes all secondary, postsecondary, graduate, and professional educational institutions.
- (10) If applicable, information regarding the subject's military service, including dates of service, type of discharge, and details of any court-martial proceedings in which the subject was involved.
- (11) A list of all political contributions made by or on behalf of the subject to any candidate for any office or position in any jurisdiction in the state of Iowa during the last two years. Such list should include the candidate's name, the office or position for which the candidate ran or is running, and the amount and date of the contribution.
- (12) The state, license number, date of expiration, and name and address shown on the subject's current driver's license.
- (13) A list of three personal references, including a name, address, and telephone number for each reference as well as a brief statement describing the relationship between the subject and each reference and how long the subject has been acquainted with each reference.
- (14) A summary of the subject's employment record for the last ten years, including names, addresses, and telephone numbers of prior employers, dates of employment, and positions held.
- (15) A list of personal litigation during the last ten years other than divorce, legal separation, or annulment proceedings to which the subject has been a party.
- (16) A list of any litigation within the past ten years wherein a business entity owned by the subject, or in which the subject held an ownership interest or served as an officer or director, was a defendant and in which the defendant's conduct was allegedly criminal.
- (17) A description of any known criminal investigations and dispositions thereof regarding the subject or any business entity in which the subject holds or has held an ownership interest of 5 percent or more. The description should include the name and address of the investigating agency, the nature of the investigation, and the approximate dates on which the investigation commenced and concluded.
- (18) A list of any arrest, indictment, charge or conviction, or any naming as an unindicted party or coconspirator in

- a criminal offense involving the subject or any of the following family members of the subject: children, including step-children and adopted children; parents; parents-in-law; legal guardians; or siblings. The list should include the name of the family member (if applicable); the nature of the charge, conviction or proceeding; the name and address of the governmental agency or court involved; and the disposition.
- (19) A list of any pardon for any criminal offense in Iowa or any other jurisdiction pertaining to the subject or any of the following family members of the subject: children, including stepchildren and adopted children; parents; parents-in-law; legal guardians; or siblings. This list should include the name of the family member (if applicable), the offense, the reason for and date of the pardon, and the name and address of the pardoning authority.
- (20) A list of any personal or business loss within the past ten years involving an insurance payment of more than \$10,000.
- (21) A list of and explanation regarding any personal or business property owned by the subject that was destroyed by fire or an explosion.
- (22) A list of any application to and any permit, license, certificate, or qualification from a licensing agency in Iowa or any other state or other jurisdiction in connection with any gambling venture in which the subject is or has been involved. The list should include the date of application, the name and address of the licensing agency, the type and number of licenses, and the disposition (approval, rejection or withdrawal) of any such application, together with a description of any financial or ownership interest in any such gambling venture. For purposes of this paragraph, "gambling venture" means all types of racing and gaming activities, including but not limited to dog track, horse track, greyhound racing, horse racing, lottery, casino and pari-mutuel operations.
- (23) A description of the extent of involvement, if any, the subject has or anticipates having in participation in the management or operation of the bidder.
- (24) Information regarding the filing and status of state and federal income tax returns for the previous three years. Copies of said returns should also be included.
- (25) A statement regarding any financial or ownership interest of 5 percent or more that the subject has or had in any active or dormant companies and any failed or abandoned business projects in which the subject was invested in 5 percent or more of the business project or was a significant planner, to the extent that such interest or interests are within the scope of a gambling venture or with an Iowa lottery vendor.
- (26) Such sworn consents and authorizations as may be requested by the division of criminal investigation to gain access to records pertaining to the subject for use in investigating the information furnished by the subject in the lottery Class L-1 form and any derivation thereof, including without limitation the subject's federal and state tax records and any other records, public or private, including confidential and criminal history records.
- **4.16(4)** Alternative sources for business entity investigations. In lieu of a division of criminal investigation lottery business entity investigation or any component thereof, the lottery commissioner, at the commissioner's discretion and in cooperation with the division of criminal investigation, may accept a report furnished by authorities in another state of a recent, comparable investigation conducted by said authorities communicated between law enforcement agencies, which may be updated with any information reflecting

changes during the interim between the Iowa and the earlier investigations.

This rule is intended to implement Iowa Code sections 99E.9(2) and 99E.9(3).

ARC 2449B

LOTTERY DIVISION[705]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 99E.9(3), the Lottery Division proposes to amend Chapter 11, "Pull-Tab General Rules," Iowa Administrative Code.

The purpose of this amendment is to employ the same terminology in the pull-tab prize rules as is used in the scratch ticket prize rules contained in Chapter 8 of the Lottery Division's administrative rules.

In order to ensure stakeholder involvement as anticipated in Executive Order Number 8, the proposed amendment has been and remains posted on the Iowa Lottery Web site, www.ialottery.com.

Any interested party may submit written comments concerning the proposed amendment or may submit a written request to make an oral presentation. The comments or request must include all of the following: the name, address, and telephone number of the party making the comments or request; a reference to the specific proposed amendment that is the subject of the comments or request; and the general content of a requested oral presentation.

All comments or requests should be addressed to the Iowa Lottery Rules Administrator and should be mailed to 2015 Grand Avenue, Des Moines, Iowa 50312, faxed to (515) 281-7882, or E-mailed to web.master@ilot.state.ia.us. All comments or requests for oral presentations must be received by the Lottery Rules Administrator no later than May 20, 2003.

A meeting to hear requested oral presentations is scheduled for May 22, 2003, at 10 a.m. at the address listed above. The meeting will be canceled without further notice if no oral presentations are requested.

This amendment is intended to implement Iowa Code section 17A.3(1)"a" and chapter 99E.

The following amendment is proposed.

Amend rule 705—11.6(99E) as follows:

705—11.6(99E) Prizes. The top prize won on any pull-tab ticket shall not exceed \$500. The number and the amount of prizes shall be determined by the lottery and set forth by the specific game rules. All prizes awarded in a pull-tab game shall be low-tier prizes.

This rule is intended to implement Iowa Code sections section 99E.9(3), 99E.9(3)"b," and 99E.9(3)"d.".

ARC 2428B

MEDICAL EXAMINERS BOARD[653]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 8, "Fees," Iowa Administrative Code.

The Board approved the proposed amendment to Chapter 8 during its regularly held meeting on April 3, 2003.

The proposed amendment imposes a convenience fee on physicians who renew their licenses on line.

Any interested person may present written comments on this proposed amendment not later than 4 p.m. on May 20, 2003. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686, or E-mail at ann.mowery@ibme.state.ia.us.

There will be a public hearing on May 20, 2003, at 3 p.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medical Examiners' office is located at 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

This amendment is intended to implement Iowa Code section 147.80.

The following amendment is proposed.

Amend subrule 8.4(1), paragraph "c," as follows:

c. Renewal of an active license to practice, \$325 if renewal is made via paper application or \$300 if renewal is made via on-line application, per biennial period or a prorated portion thereof if the current license was issued for a period of less than 24 months. A convenience fee will be charged for on-line renewal.

ARC 2452B

NURSING BOARD[655]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

These amendments increase license fees to support regulatory activities of the Board.

Any interested person may make written comments or suggestions on or before May 20, 2003. Such written materi-

NURSING BOARD[655](cont'd)

als should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

These amendments are intended to implement Iowa Code chapters 147 and 152.

The following amendments are proposed.

Amend rule 655—3.1(17A,147,152,272C), definition of "fees," numbered paragraphs 1, 2, 3, 4, 7 and 8, to read as follows:

- 1. Application for original licensure based on the registered nurse examination, \$75.93.
- 2. Application for original licensure based on the practical nurse examination, \$75 93.
- 3. Application for registered nurse/licensed practical nurse licensure by endorsement, \$101 119.
- 4. Application for registration as an advanced registered nurse practitioner, \$21 27 per year, or any portion of a year.
- 7. For reactivation of a license to practice as a registered nurse/licensed practical nurse, based on \$27 33 per year, or any portion of a year, \$81 99 for a license lasting more than 24 months up to 36 months.
- 8. For the renewal of a license to practice as a registered nurse/licensed practical nurse, \$81 99 for a three-year period.

ARC 2430B

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 543D.5, the Real Estate Appraiser Examining Board gives Notice of Intended Action to amend Chapter 3, "Examination," and Chapter 12, "Fees," Iowa Administrative Code.

The proposed amendment to Chapter 3 establishes a process for work product review of original and upgrade applications. The proposed amendment to Chapter 12 establishes a fee for processing review of the work product.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

Any interested person may make written or oral suggestions or comments on these proposed amendments on or before May 20, 2003. Comments should be directed to Susan Griffel, Executive Officer, Iowa Real Estate Appraiser Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; fax (515)281-7411; E-mail susan.griffel@comm7.state.ia.us.

These amendments are intended to implement Iowa Code chapters 272C and 543D.

The following amendments are proposed.

ITEM 1. Adopt <u>new</u> rule 193F—3.5(543D) as follows:

193F—3.5(543D) Work product review.

- **3.5(1)** On and after September 1, 2003, as a condition of original or upgrade certification, all applicants shall submit to the board three appraisals dated within six months prior to submission. The fee for processing review of the appraisals is provided in 193F—Chapter 12.
- 3.5(2) The applicant may select the appraisals to be submitted to the board. The applicant should submit appraisals that the applicant believes are of good quality, compliant with all applicable appraisal standards, and representative of the applicant's work product. The board reserves the right to request one or more additional appraisals if those submitted by the applicant raise issues concerning the applicant's competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant's work product. Such additional appraisals may be selected at random from the applicant's log, or may be selected specifically to provide an example of the applicant's work product regarding a particular type of appraisal.
- 3.5(3) The board shall treat all appraisals received as public records unless the applicant notifies the board at the time of submission that a submitted appraisal is subject to the confidentiality provisions of appraisal standards or is otherwise confidential under state or federal law. While applicants are encouraged to submit appraisals actually performed for clients, applicants may submit one or more demonstration appraisals if they are prepared based on factual information in the same manner as applicable to actual appraisal assignments, and clearly marked as demonstration appraisals.
- **3.5(4)** At least two of the appraisals must be nonresidential appraisals if the applicant is seeking original or upgrade certification as a certified general real estate appraiser.
- **3.5(5)** The board, or a committee of the board, will evaluate the submitted work product for facial compliance with applicable appraisal standards. The board may submit one or more of the appraisals to a peer review consultant for an opinion on the appraiser's compliance with applicable appraisal standards. In most instances, the board expects the work product evaluation process to take no longer than 30 calendar days. The applicant will be notified if the evaluation process may take longer than 30 days.
- **3.5**(6) The work product evaluation process is not intended as an endorsement of an applicant's work product. No applicant or licensee shall represent the results of work product evaluation in communications with a client or in marketing to potential clients in a manner which falsely portrays the board's work product review as an endorsement of the appraiser or the appraiser's work product. Failure to comply with this prohibition may be grounds for discipline as a practice harmful or detrimental to the public.
- **3.5**(7) The board views work product review, in part, as an educational process. While the board may deny an application based on an applicant's failure to adhere to appraisal standards or otherwise demonstrate a level of competency upon which the public interest can be protected, the board will attempt to work with applicants deemed in need of remedial assistance to arrive at a mutually agreeable plan. A remedial plan may include additional education, desk review, a mentoring program, or additional precertification experience.
- **3.5(8)** An applicant who is denied licensure based on the work product review described in this rule, or on any other ground, shall be entitled to a contested case hearing as provided in 193—7.39(546,272C). Notice of license denial shall specify the grounds for denial, which may include any

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

of the work performance-related grounds for discipline against a certified appraiser.

3.5(9) If probable cause exists, the board may open a disciplinary investigation against a licensee based on the work product review of an applicant. A potential disciplinary action could arise, for example, if the applicant is a certified residential real estate appraiser seeking an upgrade to a certified general real estate appraiser, or where the applicant is uncertified and is working under the supervision of a certified real estate appraiser who cosigned the appraisal report.

ITEM 2. Amend rule **193F—12.1(543D)** by adding the following **new** fee at the end of the list:

Work product review fee \$100

ARC 2429B

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 543B.9, 543B.18, and 543B.46, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 13, "Trust Accounts and Closings," Iowa Administrative Code.

These proposed amendments are intended to bring 193E IAC 13 into accordance with Brown et al. v. Legal Foundation of Washington et al. Certiorari to the United States Court of Appeals for the Ninth Circuit, No. 01-1325, and to clarify that the client is free to request that interest on the client's funds be paid to a third party.

Item 1 amends subrule 13.1(2) to clarify that the client is free to request that interest on the client's funds be paid to a third party. Items 2 and 3 clarify that the parties to the transaction do have control of the interest.

On March 26, 2003, the United States Supreme Court issued its decision in Brown v. Legal Foundation of Washington, which can be found at the Supreme Court's Web site at the following address: http://www.supremecourtus.gov/opinions/02pdf/01-1325.pdf.

The decision resolved a challenge to the state of Washington's Interest on Lawyer Trust Account (IOLTA) program. Under the terms of the program, lawyers and nonlawyers who were authorized to conduct certain real estate closings were required to place a client's funds in pooled interest-bearing trust accounts if the funds could not earn net interest for the client. Interest earned in the IOLTA program served a variety of public purposes.

The United States Supreme Court upheld the IOLTA program in the face of constitutional challenge because the Washington Supreme Court's rules "unambiguously require lawyers . . . to deposit client funds in non-IOLTA accounts whenever those funds could generate net earnings for the client." Id. Lawyers were only permitted to deposit client funds into an IOLTA account if the funds would not generate net interest for clients. Given the transitory nature of many trust deposits, along with the costs associated with non-IOLTA accounts, clients commonly could not earn net interest on the trust funds.

Under Iowa law, real estate brokers are generally required to deposit a client's funds in pooled interest-bearing trust accounts, but are allowed to pay interest to the buyer or seller upon agreement of the parties. See Iowa Code section 543B.46(1) (2003); 193E IAC 13.1(2). Brokers typically have entered into agreements with clients to pay interest to buyers or sellers when funds are sufficiently large or will be held long enough to earn net interest. These amendments will make it unambiguous that a broker must enter into such an agreement whenever net interest will be earned for the client. In the absence of such an agreement, brokers will continue to deposit a client's funds in pooled interest-bearing accounts where interest can be collectively earned for a public purpose.

A public hearing will be held on May 20, 2003, at 10 a.m. in the Second Floor Professional Licensing Conference Room, 1920 SE Hulsizer, Ankeny, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine remarks to the subject of the proposed amendments.

Consideration will be given to all written suggestions or comments received on or before the end of the business day, May 20, 2003. Comments should be addressed to Roger Hansen, Executive Officer, Iowa Real Estate Commission, 1920 SE Hulsizer, Ankeny, Iowa 50021, or faxed to (515) 281-7411. E-mail may be sent to Roger.Hansen@comm7.state.ia.us.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 2456B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code sections 543B.9, 543B.18, and 543B.46.

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

May 1, 2002 — May 31, 2002	7.25%
June 1, 2002 — June 30, 2002	7.25%
July 1, 2002 — July 31, 2002	7.25%
August 1, 2002 — August 31, 2002	7.00%
September 1, 2002 — September 30, 2002	6.75%
October 1, 2002 — October 31, 2002	6.25%
November 1, 2002 — November 30, 2002	5.75%
December 1, 2002 — December 31, 2002	6.00%
January 1, 2003 — January 31, 2003	6.00%
February 1, 2003 — February 28, 2003	6.00%
March 1, 2003 — March 31, 2003	6.00%
April 1, 2003 — April 30, 2003	6.00%
May 1, 2003 — May 31, 2003	5.75%

FILED EMERGENCY

ARC 2451B

ARC 2446B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 61, "Refugee Services Program," Iowa Administrative Code.

These amendments expand the scope of eligibility for refugee services to include victims of trafficking, as required by the Trafficking Victims Protection Act of 2000. Under this law, an alien who is a victim of a severe form of trafficking, as certified by the U.S. Department of Health and Human Services, shall be eligible for benefits and services under any federal or state program to the same extent as an alien who is admitted to the United States as a refugee. Severe forms of trafficking include sex trafficking and trafficking for forced labor.

These amendments also update and clarify the definition of "refugee" and the categories of people eligible for services as refugees. These are technical changes to conform to federal statutory and regulatory language and do not change the scope of eligibility for services under this chapter.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on February 5, 2003, as ARC 2286B. The Department received no comments on these amendments. These amendments are identical to those published in the Notice of Intended Action.

The Council on Human Services adopted these amendments on April 9, 2003.

These amendments do not provide for waivers in specified situations because they provide a benefit to the people affected.

The Department finds that these amendments confer a benefit on victims of trafficking by allowing them to access supportive services through the Department's Bureau of Refugee Services. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments shall be waived.

These amendments are intended to implement Iowa Code section 217.6.

These amendments shall become effective May 1, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [61.1, 61.3] is being omitted. These amendments are identical to those published under Notice as ARC 2286B, IAB 2/5/03.

[Filed Emergency After Notice 4/10/03, effective 5/1/03] [Published 4/30/03]

[For replacement pages for IAC, see IAC Supplement 4/30/03.]

LOTTERY DIVISION[705]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 99E.9(3), the Lottery Division hereby amends Chapter 2, "Licensing," Iowa Administrative Code.

This amendment reduces the fees paid by current retailers who wish to add computerized games to the type of lottery products they sell. Currently, retailers who sell only instant tickets and pull-tabs have to pay a fee of \$100 if they want to start selling computerized game tickets. The \$100 fee was originally meant to offset the cost of installing a telephone line to hook up to the computerized game terminal. However, the Lottery Division has determined that the additional \$100 fee is no longer necessary for retailers to pay because the Lottery's contract with the online game vendor provides that the vendor now bears the costs of installation of computerized game terminals. This amendment eliminates the \$100 fee that these retailers have had to pay.

An amendment to subrule 2.4(3) was Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on February 19, 2003, as **ARC 2322B**. That amendment eliminated the \$100 fee previously required for new retail applicants who wanted to sell computerized games. Subrule 2.4(4) is amended in this rule making in order that the same fees apply to both new applicants and current retailers who desire to sell computerized game tickets.

Pursuant to Iowa Code section 17A.4(2), the Lottery Division finds that notice and public participation are unnecessary and impracticable because the subrule is being amended to benefit the group affected by the rule, lottery product retailers.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Lottery Division finds that the normal effective date of this amendment, 35 days after publication, should be waived and that this amendment should be made effective upon filing on April 11, 2003, because it confers a benefit by eliminating the fees retailers pay if they want to expand the type of lottery products they sell, which will confer a benefit on those retailers who previously did not or could not pay the additional fee. This amendment is expected to increase the number of retailers who will want to sell computerized game tickets.

The Lottery Board adopted this amendment on March 28, 2003

This amendment is intended to implement Iowa Code sections 99E.9(3) and 99E.16.

This amendment became effective on April 11, 2003. The following amendment is adopted.

Amend subrule 2.4(4) as follows:

2.4(4) Retailers who are currently licensed may apply for a license modification to allow the sale of additional lottery products. A current retailer may be required to complete an additional application or application supplements. If a current retailer requests that the existing license be modified to allow the sale of scratch tickets or pull-tab tickets, no additional application fee will be charged. If a current retailer requests a modification of an existing license to allow the sale

of computerized game tickets, if available, a nonrefundable fee of \$100 will be charged.

[Filed Emergency 4/11/03, effective 4/11/03] [Published 4/30/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/03.

ARC 2456B

REAL ESTATE COMMISSION[193E]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 543B.9, 543B.18, and 543B.46, the Real Estate Commission hereby amends Chapter 13, "Trust Accounts and Closings," Iowa Administrative Code.

These amendments are intended to bring 193E IAC 13 into accordance with Brown et al. v. Legal Foundation of Washington et al. Certiorari to the United States Court of Appeals for the Ninth Circuit, No. 01-1325, and to clarify that the client is free to request that interest on the client's funds be paid to a third party.

Item 1 amends subrule 13.1(2) to clarify that the client is free to request that interest on the client's funds be paid to a third party. Items 2 and 3 clarify that the parties to the transaction do have control of the interest.

On March 26, 2003, the United States Supreme Court issued its decision in Brown v. Legal Foundation of Washington, which can be found at the Supreme Court's Web site at the following address: http://www.supremecourtus.gov/opinions/02pdf/01-1325.pdf.

The decision resolved a challenge to the state of Washington's Interest on Lawyer Trust Account (IOLTA) program. Under the terms of the program, lawyers and nonlawyers who were authorized to conduct certain real estate closings were required to place a client's funds in pooled interest-bearing trust accounts if the funds could not earn net interest for the client. Interest earned in the IOLTA program served a variety of public purposes.

The United States Supreme Court upheld the IOLTA program in the face of constitutional challenge because the Washington Supreme Court's rules "unambiguously require lawyers . . . to deposit client funds in non-IOLTA accounts whenever those funds could generate net earnings for the client." Id. Lawyers were only permitted to deposit client funds into an IOLTA account if the funds would not generate net interest for clients. Given the transitory nature of many trust deposits, along with the costs associated with non-IOLTA accounts, clients commonly could not earn net interest on the trust funds.

Under Iowa law, real estate brokers are generally required to deposit a client's funds in pooled interest-bearing trust accounts, but are allowed to pay interest to the buyer or seller upon agreement of the parties. See Iowa Code section 543B.46(1) (2003); 193E IAC 13.1(2). Brokers typically have entered into agreements with clients to pay interest to buyers or sellers when funds are sufficiently large or will be held long enough to earn net interest. These amendments make it unambiguous that a broker must enter into such an agreement whenever net interest will be earned for the client. In the absence of such an agreement, brokers will continue to deposit a client's funds in pooled interest-bearing accounts

where interest can be collectively earned for a public purpose.

In compliance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are impracticable because of the immediate need for rule changes to address concerns expressed by the Assistant Attorney General Assigned to Real Estate, and the changes are necessary to comply with the Brown v. Legal Foundation of Washington United States Supreme Court decision.

The Real Estate Commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing on April 4, 2003, because the U.S. Supreme Court's decision was issued March 26, 2003, and these amendments bring current rules into compliance with the decision.

These amendments are also published herein under Notice of Intended Action as ARC 2429B to allow public comment.

These amendments became effective April 4, 2003.

These amendments are intended to implement Iowa Code sections 543B.9, 543B.18, and 543B.46.

The following amendments are adopted.

ITEM 1. Amend subrule 13.1(2) as follows:

13.1(2) Unless there is a written agreement between all parties to the transaction to the contrary, or the provisions of paragraph 13.1(2) "g" apply, all interest earned on the trust account shall be transferred on a calendar quarter basis to the state. The amount to be remitted to the state will be the amount of interest earned less any service charges directly attributable to the requirement of maintaining an interest-bearing account and of remitting the interest to the state. The broker may have the depository remit the interest directly or the broker may remit the interest but, in either case, it shall be the responsibility of the broker to see that the interest is remitted. The broker may, but shall not be required to, inform the parties to the transaction of the intended use of the interest

- a. If the interest is remitted by the broker, the broker should use the commission-approved Real Estate Interest Remittance Form and include a copy of the applicable bank statement(s) showing the interest paid and the service charges attributable to maintaining the account.
- b. If the interest is remitted by the broker, the broker shall mail the interest remittance check and required documentation to:

The State of Iowa

c/o Bankers Trust Company

P.O. Box 4686

Des Moines, Iowa 50306

- c. The depository should use the name "Iowa Department of Economic Development" and the federal tax information number (TIN) 42-6004545 on the 1099 reporting form when reporting the interest to the IRS.
- d. The depository should send the 1099 reporting form to:

Iowa Department of Economic Development

200 East Grand Avenue

Des Moines, Iowa 50309

- e. If the property management or rental account is interest-bearing, the interest shall be transferred on a calendar quarter basis to the state unless there is a written agreement paying the interest to the property owner.
- f. In no event shall the broker be paid interest earned on moneys held in trust for others by the broker.
- g. A broker shall enter into a written agreement to pay interest to a buyer or seller in a transaction, or to a third

REAL ESTATE COMMISSION[193E](cont'd)

party if requested by the parties to the contract and agreed to by the broker, if the client's trust funds can earn net interest. In determining whether a client can earn net interest on funds placed in trust, the broker shall take into consideration all relevant factors including the following:

- (1) The amount of interest that the funds would earn during the period in which they are reasonably expected to be deposited;
- (2) The cost of establishing and administering an individual interest-bearing trust account in which the interest would be transmitted to the client, including any needed tax forms; and
- (3) The capability of the financial institution to calculate and pay interest to individual clients through subaccounting or otherwise.

ITEM 2. Amend subrule 13.1(3) as follows:

13.1(3) A With the agreement of all parties, a trust account may bear interest to be disbursed to (1) the buyer or seller involved in a real estate purchase, sale or exchange transaction, or (2) the property owner, if the property management or rental contract contains this specific provision, or (3) as otherwise specifically allowed or provided in Iowa Code sections 562A.12(2) and 562B.13(2), or (4) a third party if requested by the parties to the contract and agreed to by the broker.

ITEM 3. Amend subrule 13.1(11) as follows:

13.1(11) A trust account may bear interest to be disbursed to the buyers or sellers or to a third party if requested by the parties to the contract and agreed to by the broker with the written approval of all parties to the contract or to the owner if the trust account is for a property management account and the management contract so specifies, or as otherwise specifically allowed or provided in Iowa Code sections 562A.12(2) and 562B.13(2). The account shall be a separate account from the account(s) which is to accrue interest to the state. The broker shall not benefit from interest received on funds of others in the broker's possession. Interest shall be disbursed to the owner or owners of the funds at the time of settlement of the transaction or as agreed to in the management contract and shall be properly accounted for on closing statements. Service charges for the account are a business expense of the broker and shall not be deducted from the proceeds.

[Filed Emergency 4/4/03, effective 4/4/03] [Published 4/30/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/03.

ARC 2443B

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby amends Chapter 11, "State of Iowa Scholarship Program," Iowa Administrative Code.

The adopted amendments, which clarify the rules, are made pursuant to Executive Order Number 8. The amendments do not materially affect the administration of the program.

Notice of Intended Action was published in the February 19, 2003, Iowa Administrative Bulletin as **ARC 2298B**. No comments were received from the public. The adopted amendments are identical to those published under Notice.

These amendments were approved during the April 1, 2003, meeting of the College Student Aid Commission.

These amendments will become effective June 4, 2003. These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to 11.1] is being omitted. These amendments are identical to those published under Notice as **ARC 2298B**, IAB 2/19/03.

[Filed 4/11/03, effective 6/4/03] [Published 4/30/03]

[For replacement pages for IAC, see IAC Supplement 4/30/03.]

ARC 2442B

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby amends Chapter 12, "Iowa Tuition Grant Program," Iowa Administrative Code.

The adopted amendments, which clarify the rules in the chapter, are made pursuant to Executive Order Number 8. The amendments do not materially affect the administration of the program.

Notice of Intended Action was published in the February 19, 2003, Iowa Administrative Bulletin as ARC 2297B. No comments were received from the public. Comments were received from members of the Commission, and changes to the proposed amendments have been made to clarify limited student eligibility for Iowa Tuition Grant awards, to clarify the process that colleges and universities must follow to allow their students to receive Iowa Tuition Grants, and to clarify the requirements for summer Iowa Tuition Grant award eligibility.

These amendments were approved during the April 1, 2003, meeting of the College Student Aid Commission.

These amendments will become effective June 4, 2003.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

The following amendments are adopted.

Amend **283—Chapter 12** as follows:

CHAPTER 12 IOWA TUITION GRANT PROGRAM

283—12.1(261) Tuition grant based on financial need to Iowa residents enrolled at eligible private institutions of postsecondary education in Iowa.

12.1(1) Financial need. The need of an applicant for financial assistance under this program shall be evaluated annually on the basis of a confidential statement of family finances filed on forms a form designated by the commission. For the purposes of determining financial need, the commission has adopted the use of the Free Application for Federal Student Aid (FAFSA), a federal form used to calculate a formula developed by the U.S. Department of Education, the results of which are used to determine relative need. The form FAFSA must be received by the processing agent by the date specified in the application instructions.

12.1(2) Tuition and mandatory fees. Tuition and mandatory fees shall be defined as those college costs paid annually by all students enrolled on a full-time basis, such costs to be as reported annually to the commission by each participating institution college or university. Each college or university also will provide annually its rates for part-time tuition and fees to the commission.

12.1(3) Student eligibility. A recipient must be an Iowa resident who is enrolled for at least three semester hours, or the trimester or quarter equivalent, in a program leading to a degree from an eligible Iowa institution college or university. The criteria used by the state board of regents to determine residency for tuition purposes, 681—1.4(262), are adopted for this program.

Iowa tuition grants are provided during the traditional nine-month academic year generally defined as September through May. Students may receive no more than 8 semesters of full-time Iowa tuition grants or 16 part-time semesters.

A recipient may receive this grant for summer enrollment if the recipient is enrolled in an institutionally defined a commission-approved accelerated academic program that integrates summer attendance. The purpose of restricting summer Iowa tuition grants is to ensure that students who take classes during the summer do not exhaust Iowa tuition grant eligibility prior to completing four-year degree programs. Schools shall submit to the commission for staff approval written plans outlining an accelerated academic program prior to making summer awards. The criteria used by the state board of regents to determine residency for tuition purposes, IAC 681—1.4(262), are adopted for this program.

12.1(4) Self-supporting applicants. For purposes of determining financial independence, the commission has adopted the definition in use by the U.S. Department of Education for the federally funded student assistance programs. Self-supporting applicants must certify their status on the financial aid form and supply any required documentation to the educational institution.

12.1(5) (4) Priority for grants. Applicants are ranked in order of the estimated amount which the family reasonably can be expected to contribute toward college expenses, and awards are granted to those who demonstrate need in order of family contribution, from lowest to highest, insofar as funds permit.

12.1(6) (5) Award notification. A grant recipient is notified of the award by the educational institution(s) college or

university to which application is made. Any award notification provided by a candidate institution college or university or an institution a college or university on probation with the accrediting agency must be made contingent upon the institution college's or university's maintaining affiliation with the accrediting agency. The institution(s) college or university is responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The institution college or university reports changes of in student eligibility to the commission.

12.1(7) (6) Award transfers and adjustments. Recipients are responsible for promptly notifying the appropriate institution(s) college or university of any change in enrollment or financial situation. The educational institution college or university will make necessary changes and notify the commission.

12.1(8) (7) Restrictions. A student who is in default on a Stafford Loan, SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the Iowa tuition grant program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedure procedures set forth in 283—Chapter Chapters 4 and 5. Credits that a student receives through "life experience credit" and "credit by examination" are not eligible for tuition grant funding.

This rule is intended to implement Iowa Code sections 261.15(2) and 261.16(3).

283—12.2(261) Tuition grant institutional eligibility requirements.

12.2(1) Methods of gaining institutional eligibility under Iowa Code section 261.9. An Iowa institution college or university requesting participation in the Iowa tuition grant program must apply to the college student aid commission utilizing using the commission's designated application.

The applicant institution college or university seeking to participate in the Iowa tuition grant program (Iowa Code section 261.9, et seq.) must:

- a. Be accredited by the North Central Association of Colleges and Schools (NCA); or
- b. Be certified by the NCA as a candidate for accreditation; or
- c. Be a school of nursing accredited by the National League for Nursing and approved by the board of nurse examiners, including one operated, controlled, and administered by a county public hospital, and
- d. Be located in Iowa. "Located in Iowa" means a college or university accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools, that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.
- **12.2(2)** Processing institutional college and university applications. Institutional applicant Application forms shall will be provided by the commission.

The applicant institution shall furnish Applicant colleges and universities are required to provide to the commission with supporting documentation establishing accreditation approval or the approved accreditation plans of the institution college or university.

If applicant attempts to qualify for the tuition grant program under paragraph 12.2(1)"e" above, applicant shall pro-

vide to the commission a copy of the official transcript issued by applicant for any student used pursuant to paragraph 12.2(1)"e""4" as an example of the transfer of credits earned as applicant to an NCA accredited institution.

The applicant institution must submit its application Colleges and universities seeking to participate in the Iowa tuition grant program must submit applications by January 1 of the year prior to the beginning of the academic year for which they are applying for participation so that on January 2 of the following year its students may begin submitting need analysis applications for the following academic year.

Applicant colleges and universities must submit written plans outlining academic programs that integrate summer attendance in accelerated programs prior to making summer awards. If the summer program is approved by the commission, an applicant's students may receive Iowa tuition grants beginning in the summer following approval. Academic programs, defined by colleges or universities, which allow students to complete four-year baccalaureate programs in less than the normal prescribed time period while taking the same courses as students completing the same degree during a traditional four-year time period will be approved. A summer academic program may be defined for a group of students or may be a self-directed program in which a student has received approval from appropriate officials of the college or university.

Applications received by the commission will be submitted to the committee of NCA registrars selected by the commission. The committee will be asked to review the application to verify that the requirements for credit transfer of these rules have been satisfied.

12.2(3) Notice of change of status. Any institution college or university which (a) loses NCA or National League for Nursing accreditation, (b) or ceases to be a candidate for NCA accreditation, must immediately notify the commission. (c) ceases to be a school giving satisfactory assurance that it has the potential for accreditation and is making progress toward accreditation, or (d) becomes aware that its credits are no longer being accepted by three NCA institutions previously identified to the commission pursuant to paragraph 12.2(1)"e" above shall so notify the commission immediately. Failure to comply with this notice of change requirement will be justification for revocation of eligibility.

12.2(4) Definitions.

"Accelerated program" is an academic program, defined by the institution, which allows the student to complete the program of training in less than the normal prescribed time period. An accelerated program may be defined for a set group of students or may be a self-directed program in which the student has received approval from the appropriate officials of the institution.

"Applicant" is an educational institution seeking to participate in the Iowa tuition grant program (Iowa Code section 261.9, et seq.).

- "Credit" is hourly academic credit granted for completed coursework at applicant, and accepted for transfer by an NCA accredited institution. "Life experience credit" and "credit by examination" do not constitute credit for the purposes of these rules.
- "Located in Iowa" means a college or university accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools, that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

12.2(5) (4) Review of eligibility.

a. No change.

b. If the commission finds that an institution a college or university fails to comply with the provisions of Iowa Code section 261.9 and this rule, participation in the tuition grant program shall be suspended.

12.2(6) (5) Affirmative action. Reporting requirements. Every institution which participates college or university participating in the Iowa tuition grant program shall submit, each December, an affirmative action a report which will include includes existing and proposed plans for recruitment and retention of minority students student and minority faculty members and nontraditional students. information, The report shall also include statistics on minority enrollment and employment information, and other information as outlined in 1988 Iowa Acts, chapter 1284, section 23, paragraph "f," subparagraphs (1) and (5) required by the commission as described in Iowa Code sections 261.9 through 261.16.

This rule is These rules are intended to implement Iowa Code chapter 261.

[Filed 4/11/03, effective 6/4/03] [Published 4/30/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/03.

ARC 2441B

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby amends Chapter 13, "Iowa Vocational-Technical Tuition Grant Program," Iowa Administrative Code.

The adopted amendments, which clarify the rules in the chapter, are made pursuant to Executive Order Number 8. The amendments do not materially affect the administration of the program.

Notice of Intended Action was published in the February 19, 2003, Iowa Administrative Bulletin as **ARC 2296B**. No comments were received from the public. The adopted amendments are identical to those published under Notice.

These amendments were approved during the April 1, 2003, meeting of the College Student Aid Commission.

These amendments will become effective June 4, 2003.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to 13.1] is being omitted. These amendments are identical to those published under Notice as **ARC 2296B**, IAB 2/19/03.

[Filed 4/11/03, effective 6/4/03] [Published 4/30/03]

[For replacement pages for IAC, see IAC Supplement 4/30/03.]

ARC 2439B

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby rescinds Chapter 17, "Iowa Summer Institute Program," Iowa Administrative Code.

This adopted amendment eliminates rules for a program for which there is no longer statutory authority and is made pursuant to Executive Order Number 8.

Notice of Intended Action was published in the February 19, 2003, Iowa Administrative Bulletin as ARC 2295B. No comments were received from the public. The adopted amendment is identical to that published under Notice.

This amendment was approved during the April 1, 2003, meeting of the College Student Aid Commission.

This amendment will become effective June 4, 2003.

This amendment is intended to implement Iowa Code chapters 17A and 261.

The following amendment is adopted.

Rescind and reserve **283—Chapter 17**.

[Filed 4/11/03, effective 6/4/03] [Published 4/30/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/03.

ARC 2438B

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby amends Chapter 19, "Accelerated Career Education Grant Program," Iowa Administrative Code.

The adopted amendments, which ensure consistency in terms and correct unclear wording and grammatical oversights, are made pursuant to Executive Order Number 8.

Notice of Intended Action was published in the February 19, 2003, Iowa Administrative Bulletin as ARC 2294B. No comments were received from the public. The adopted amendments are identical to those published under Notice.

These amendments were approved during the April 1, 2003, meeting of the College Student Aid Commission.

These amendments will become effective June 4, 2003.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to 19.1] is being omitted.

These amendments are identical to those published under Notice as **ARC 2294B**, IAB 2/19/03.

[Filed 4/11/03, effective 6/4/03] [Published 4/30/03]

[For replacement pages for IAC, see IAC Supplement 4/30/03.]

ARC 2437B

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby amends Chapter 20, "Iowa National Guard Educational Assistance Program," Iowa Administrative Code.

The adopted amendments, which clarify wording and correct grammatical oversights as needed, are made pursuant to Executive Order Number 8.

Notice of Intended Action was published in the February 19, 2003, Iowa Administrative Bulletin as **ARC 2293B**. No comments were received from the public. The adopted amendments are identical to those published under Notice.

These amendments were approved during the April 1, 2003, meeting of the College Student Aid Commission.

These amendments will become effective June 4, 2003.

These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to 20.1] is being omitted. These amendments are identical to those published under Notice as **ARC 2293B**, IAB 2/19/03.

[Filed 4/11/03, effective 6/4/03] [Published 4/30/03]

[For replacement pages for IAC, see IAC Supplement 4/30/03.]

ARC 2436B

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby amends Chapter 27, "Iowa Grant Program," Iowa Administrative Code.

The adopted amendments, which clarify the rules, are made pursuant to Executive Order Number 8. The amendments do not materially affect the administration of the program.

Notice of Intended Action was published in the February 19, 2003, Iowa Administrative Bulletin as **ARC 2302B**. No comments were received from the public. The adopted amendments are identical to those published under Notice.

These amendments were approved during the April 1, 2003, meeting of the College Student Aid Commission.

These amendments will become effective June 4, 2003. These amendments are intended to implement Iowa Code section 17A.3(1)"a" and "b" and chapter 261.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to 27.1] is being omitted. These amendments are identical to those published under Notice as **ARC 2302B**, IAB 2/19/03.

[Filed 4/11/03, effective 6/4/03] [Published 4/30/03]

[For replacement pages for IAC, see IAC Supplement 4/30/03.]

ARC 2444B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 7, "Appeals and Hearings," Iowa Administrative Code.

These amendments clarify existing policies regarding contested case proceedings. The need for these changes was identified through the rule assessment mandated by Executive Order Number 8. These amendments:

- Rewrite and expand the definition of "aggrieved person."
- Update the definitions of "agency," "appeal," "contested case," "due process," "presumption," "PROMISE JOBS discrimination complaint," "PROMISE JOBS displacement grievance," and "timely notice period."
- Add definitions for "administrative hearing," "appeals section," "attribution appeal," "ex parte communication," "food stamp administrative disqualification hearing," "intentional program violation," "presiding officer," and "reconsideration."
- Add policies on conducting disqualification hearings for food stamps.
- Remove policies on disqualification hearings for the Family Investment Program, since those policies have not been implemented.
- Expand the rule defining the situations when the Department will not grant a hearing on an appeal request.
- Clarify the timeliness standards for different kinds of appeals.
- Clarify standards for adequate and timely notices of action.
- Update addresses, organizational units, form names, and cross references.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on February 19, 2003, as **ARC 2317B**. The Department received no comments on the Notice of Intended Action. The Department has made two corrections to the Notice of Intended Action:

- In Item 1, rule 441—7.1(17A), definition of "aggrieved person," numbered paragraph 5, first bulleted statement, the cross reference is changed from "441—subrules 95.3(1) through 95.3(3)" to "rule 441—95.13(17A)" to agree with concurrent rule making in 441—Chapter 95.
- In Item 15, subrule 7.20(1), the words "to district court, including a written transcript of hearing" were struck

HUMAN SERVICES DEPARTMENT[441](cont'd)

in error. This phrase remains in the amended subrule. The subrule now reads as follows:

"7.20(1) Right of judicial review. If a director's review is requested, the final decision shall advise the appellant or the appellant's representative of the right to judicial review by the district court. When the appellant or the appellant's representative is dissatisfied with the final decision and requests judicial review of the decision to the district court, the department shall furnish copies of the documents or supporting papers to district court, including a written transcript of the hearing. An appeal of the final decision to district court does not itself stay execution or enforcement of an agency action."

Other than the provision in 441—paragraph 7.5(4)"b" on exceptions to the timeliness standards, these amendments do not provide for waivers in specified situations because due process standards and contested case procedures should be uniform as a matter of fairness. Individuals who feel disadvantaged by a particular policy may request an exception under the Department's general rule at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on April 9, 2003.

These amendments are intended to implement Iowa Code sections 17A.12 and 17A.15.

These amendments shall become effective on July 1, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 7] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 2317B**, IAB 2/19/03.

[Filed 4/10/03, effective 7/1/03] [Published 4/30/03]

[For replacement pages for IAC, see IAC Supplement 4/30/03.]

ARC 2445B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 217.6 and 252B.3, the Department of Human Services amends Chapter 95, "Collections," Chapter 96, "Information and Records," Chapter 97, "Collection Services Center," and Chapter 98, "Support Enforcement Services," Iowa Administrative Code.

These amendments relate to the following services provided by the Child Support Recovery Unit: serving qualifying customers, locating parents and safeguarding information, receiving and disbursing payments, and collecting support through state and federal offsets. The amendments were developed in response to public comments and internal assessments from the rules review mandated by Executive Order Number 8.

Changes to Chapter 95 include:

Clarifying that a caretaker may apply for support enforcement against one or both parents and that a separate application form and fee are required for each parent from whom support is sought.

- Clarifying how the Unit determines the date of collection for vacation and severance withholding when the date is not indicated by the employer and that additional payments can be made if documentation is provided later.
- Clarifying requirements and procedures for collection from state or federal income tax refunds. The requirement to sign a repayment agreement for federal tax refund offset is deleted since the nonassistance application form already contains these provisions.
- Restoring provisions for appeals by the custodial parent based on the date of collection. Rule 441—95.13(17A) was inadvertently rescinded in a previous rule making.
- Adding provisions allowing the Department to close cases at the request of the recipient or when allowed by federal law. Case closure provisions for public assistance and non-public assistance cases are consolidated into subrule 95.14(1).
- Changing the time frame for notifying a family whose public assistance has been canceled of the continuation of support services and the fees and requirements of continued services. To comply with federal requirements, the Department must issue this notice within five working days of the notice of the family's ineligibility for Family Investment Program benefits.
- Adding a reference to completion of Form 470-3877, Child Support Information, to the requirements for cooperating in collection efforts.
- Clarifying that the income maintenance unit determines noncooperation until the case is referred to the Child Support Recovery Unit.

Changes to Chapter 96 include:

- Consolidating provisions on refusal to comply with a request for information.
- Clarifying that a person has 30 days from the date of the notice to pay a fine for failure to comply with a request or subpoena.

Changes to Chapter 97 include:

- Defining the core case information that a clerk of court is required to transmit to the Unit.
- Removing a requirement that the Department mail monthly statements to noncustodial parents who are not subject to income withholding. Since payments can be submitted without the return of the monthly statement, the statement can be eliminated as a cost-saving measure.

Chapter 98 is amended to include a new subrule setting the proportion of a state government payment to an obligor that may be offset to apply toward delinquent support payments. Although state law allows 100 percent offset, the subrule sets the amount of offset at 50 percent to be consistent with the withholding limits on other types of income. The exception is lottery winnings, which are offset at 100 percent, since they are unanticipated income.

All of these chapters are revised to correct form names and numbers, update organizational names and statutory and regulatory references, and eliminate unnecessary language.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on February 19, 2003, as ARC 2318B. The Department received one comment on these amendments, requesting that the Unit contact the obligor in every instance when the income provider does not document the months for which the sums were withheld.

With over 218,000 income withholding payments processed per month from over 11,000 employers, the Unit often knows the date of withholding for an employer. This is true for all kinds of income withholding payments, including vacation and severance pay. When employers do not send the date of withholding and the Unit has no other information

HUMAN SERVICES DEPARTMENT[441](cont'd)

from the employer from which to impute it, the Unit uses the date of the check. This is necessary to meet federal requirements to distribute payments in two business days.

The Unit does not have sufficient staff resources to contact employers in every case. However, if a customer contacts the Unit in the belief that the date used has caused a problem, the Unit will contact the employer to verify the date and issue any additional benefits that are due the custodial parent.

The Council on Human Services adopted these amendments on April 9, 2003. These amendments are identical to those published in the Notice of Intended Action.

These amendments define rights to appeal and the process for contesting the actions of the Child Support Recovery Unit. The amendments do not offer further provision for waivers in specified situations because the amendments are either less restrictive than current rules or because they conform to federal or state statutes, which the Department does not have the authority to waive.

These amendments are intended to implement Iowa Code sections 96.3(9), 217.34, 252B.2 through 252B.7, 252B.9, 252B.14 through 252B.16, 252E.11, 421.17, and 598.22.

These amendments shall become effective on July 1, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 95 to 98] is being omitted. These amendments are identical to those published under Notice as **ARC 2318B**, IAB 2/19/03.

[Filed 4/10/03, effective 7/1/03] [Published 4/30/03]

[For replacement pages for IAC, see IAC Supplement 4/30/03.]

ARC 2448B

LOTTERY DIVISION[705]

Adopted and Filed

Pursuant to the authority of Iowa Code section 99E.9(3) and Executive Order Number 8, the Lottery Division hereby amends Chapter 1, "General Operation of the Lottery," Chapter 2, "Licensing," Chapter 3, "Licensed Retailers," Chapter 8, "Scratch Ticket General Rules," Chapter 11, "Pull-Tab General Rules," and Chapter 13, "Computerized Lottery Games—General Rules," Iowa Administrative Code.

The purpose of these amendments is to satisfy the requirements of Executive Order Number 8, which mandates that state agencies identify and modify or rescind administrative rules that are outdated, redundant, overly broad, ineffective, unnecessary, or otherwise undesirable.

Notice of Intended Action for these amendments was published in the February 19, 2003, Iowa Administrative Bulletin as **ARC 2320B**. A public hearing was scheduled for March 13, 2003, at the Iowa Lottery headquarters; however, the meeting was canceled because no written requests to make oral presentations during the meeting were received. The Lottery Division also received no written comments on the proposed amendments. The adopted amendments are identical to those published under Notice.

The Lottery Board adopted these amendments on March 28, 2003.

These amendments are intended to implement Executive Order Number 8 and Iowa Code section 17A.3(1)"a" and chapter 99E.

These amendments will become effective on June 4, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 1 to 3, 8, 11, 13] is being omitted. These amendments are identical to those published under Notice as **ARC 2320B**, IAB 2/19/03.

[Filed 4/11/03, effective 6/4/03] [Published 4/30/03]

[For replacement pages for IAC, see IAC Supplement 4/30/03.]

ARC 2447B

LOTTERY DIVISION[705]

Adopted and Filed

Pursuant to the authority of Iowa Code section 99E.9(3), the Lottery Division hereby amends Chapter 13, "Computerized Lottery Games—General Rules," Iowa Administrative Code.

The amendment adds definitions to the current rule to provide terminology defining certain drawing, sales, and vending equipment used in delivery of lottery games and services and to clarify the differences between authorized and unauthorized equipment.

Notice of Intended Action for this amendment was published in the November 13, 2002, Iowa Administrative Bulletin as **ARC 2086B**. A public hearing was scheduled for December 3, 2002, at the Iowa Lottery headquarters; however, the hearing was canceled because no requests to make oral comments were received. Additionally, no written comments were received.

Although no comments regarding the proposed changes were received from the public, the Lottery concluded that one of the new defined terms, "pull-tab vending machine," had the potential to be confusing for the public. Therefore, the Lottery decided to change the term "pull-tab vending machine" to "monitor vending machine." The definition now reads as follows:

""Monitor vending machine' means a vending machine that dispenses or prints and dispenses lottery tickets that have been determined to be winning or losing by a predetermined pool drawing machine prior to the dispensing of the tickets."

The Lottery Board adopted this amendment on March 28, 2003.

This amendment is intended to implement Iowa Code section 99E.9(3).

This amendment will become effective on June 4, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to 13.2] is being omitted.

With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 2086B**, IAB 11/13/02.

[Filed 4/11/03, effective 6/4/03] [Published 4/30/03]

[For replacement pages for IAC, see IAC Supplement 4/30/03.]

ARC 2454B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 455A.5(6), the Natural Resource Commission hereby amends Chapter 7, "Rules of Practice in Contested Cases," Iowa Administrative Code.

This amendment adopts by reference amendments to 561—Chapter 7, Rules of Practice in Contested Cases, which were adopted by the Director of the Department of Natural Resources and were published in the Iowa Administrative Bulletin on February 19, 2003, as **ARC 2303B**. The purpose

of that rule making was to amend the Department's procedural rules to conform to Iowa Code chapter 17A, to update the titles of Department officials mentioned in the rules, and to correct an error in the rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 11, 2002, as **ARC 2185B**. The deadline for public comment was December 31, 2002. No comments were received.

This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 455A.5.

This amendment will become effective June 4, 2003. The following amendment is adopted.

Amend rule 571—7.1(17A) as follows:

571—7.1(17A) Adoption by reference. The commission adopts by reference 561—Chapter 7, Iowa Administrative Code, as amended on February 19, 2003, effective March 26, 2003.

[Filed 4/11/03, effective 6/4/03] [Published 4/30/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/03.

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